FEDERAL REGISTER

VOLUME 18 NUMBER 152

Washington, Wednesday, August 5, 1953

TITLE 3—THE PRESIDENT

PROCLAMATION 3026

UNITED NATIONS DAY, 1953

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the United Nations provides the peoples of the world with an organization through which international differences in the economic and political fields can be peacefully resolved; and

WHEREAS the need for the United Nations is greater than ever before, and its success depends on the extent to which its members give it support; and

WHEREAS the expression of our faith in and support of the United Nations will encourage and bring hope to the peoples of other nations who are also working toward a true peace with freedom and justice for all; and

WHEREAS the General Assembly of the United Nations has declared that October 24, the anniversary of the entry into force of the United Nations Charter, should be dedicated each year to the dissemination of information concerning the aims and accomplishments of the United Nations:

NOW THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby urge the citizens of this Nation to observe Saturday, October 24, 1953, as United Nations Day by sending messages to friends, relatives, and associates in other member countries of the United Nations, by learning more about the United Nations and its members, and by expressing their confidence in the United Nations, their friendship for other peoples, and their faith in the ultimate triumph of peace and justice through the efforts of men of good will.

I also call upon the officials of the Federal, State, and local Governments, the United States Committee for United Nations Day, representatives of civic, educational, and religious organizations, agencies of the press, radio, television, motion pictures, and other communications media, and all citizens to cooperate in appropriate observance of this day throughout our country.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 31st day of July in the year of our Lord nineteen hundred and fifty-three, and of the Independence of the United States of America the one hundred and seventy-eighth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 53-6885; Filed, Aug. 3, 1953; 5:16 p. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Docket No. AO-178-A11]

PART 975—MILK IN THE CLEVELAND, OHIO, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 975.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing

(Continued on p. 4591)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act.

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this amendatory order effective on 1953. Such action is necessary in the public interest in order to reflect current marketing conditions and to facilitate the orderly marketing of milk produced for the Cleveland, Ohio, marketing area. Accordingly, any further delay in the effective date of this order will seriously threaten the orderly marketing of milk in the marketing area. The provisions of this amendatory order are well known to handlers and producers, the public hearing having been convened on June 17, 1953, a recommended decision having been issued on July 7, 1953 for the purpose of inviting exceptions, and a decision containing the terms and provisions of the order having been issued on July 27, 1953. Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. Therefore, it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c) Administrative Procedure Act, Public Law 404, 79th Congress, 60 Stat. 237.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations or producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order, as amended,) of more than 50 percent of the volume of the milk covered by this order amending the order, as amended, which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers, who during the determined representative period (April 1953) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Cleveland, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. In § 975.61 (a) (1) (ii) change the tabulated schedule of standard utilization percentages to read as follows:

Month for which the price is being computed:	*Standard utilization percentage*
January	119
February	123
March	128
April	135
May	146
June	162
July	163
August	157
September	144
October	135
November	130
December	123

2. In § 975.61 (a) (1) (iii) change the tabulated schedule of amounts to read as follows:

Deviation percentage:	*Amount of supply-demand adjustment (cents)*
+13 or over	−25
+10 or +11	−19
+7 or +8	−13
+4 or +5	−7
+2 to −2	0
−4 or −5	+7
−7 or −8	+13
−10 or −11	+19
−13 or below	+25

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 603)

Issued at Washington, D. C. this 30th day of July 1953, to be effective on and after the 1st day of August 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6803; Filed, Aug. 4, 1953; 8:48 a. m.]

Chapter XI—Agricultural Conservation Program, Department of Agriculture

[1061 (53)–1, Supp. 4]

PART 1101—NATIONAL AGRICULTURAL CONSERVATION

SUBPART—1953

CONSERVATION PRACTICES AND MAXIMUM RATES OF ASSISTANCE

Pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1953 National Agricultural Conservation Program, issued July 28, 1952 (17 F. R. 6995) as amended July 28, 1952 (17 F R. 7110) October 30, 1952 (17 F R. 9921) and July 24, 1953 (18 F R. 4419), is further amended as follows:

Section 1101.412 *Conservation practices and maximum rates of assistance* is amended by adding the following new paragraph at the end thereof:

(h) Notwithstanding other provisions of this section, in counties designated in June 1953, or thereafter, under Public Law 875, 81st Congress, as disaster counties because of drought, and in which the Chief, ACP, determines, upon recommendation of the State committee and designated representatives of the Soil Conservation Service and Forest Service at the State level, that a serious wind erosion hazard exists, the county committee, with the approval of the State committee, may, following such determination, approve emergency practices needed for soil protection in the critical wind erosion area, provided the additional approvals so issued shall not exceed that part of the county allocation which the county committee determines will not be earned by the performance of previously approved practices.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interprets or applies secs. 7–17, 49 Stat. 1148, as amended; 16 U. S. C. 590g–590q)

Done at Washington, D. C., this 30th day of July 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6806; Filed, Aug. 4, 1953; 8:47 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. T]

PART 220—CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

ASSISTANCE BY FEDERAL CREDIT UNION TO ITS MEMBERS

Section 220.110 is added to read as follows:

§ 220.110 *Assistance by Federal credit union to its members.* (a) An inquiry was presented recently concerning the application of this part or part 221 of this subchapter, to a plan proposed by a Federal credit union to aid its members in purchasing stock of a corporation whose subsidiary apparently was the employer of all the credit union's members.

(b) From the information submitted, the plan appeared to contemplate that the Federal credit union would accept orders from its members for registered common stock of the parent corporation in multiples of 5 shares; that whenever orders had been so received for a total of 100 shares, the credit union, as agent for such members, would execute the orders through a brokerage firm with membership on a national securities exchange; that the brokerage firm would deliver certificates for the stock, registered in the names of the individual purchasers, to the credit union against payment by the credit union; that the credit union would prorate the total amount so paid, including the brokerage fee, among the individual purchasers according to the number of shares purchased by them; and that a savings in brokerage fee resulting from the 100-lot purchases would be passed on by the credit union to the individual purchasers of the stock. However, amounts of the stock less than 100 shares would be purchased by the credit union through the brokerage firm for any members willing to forego such savings.

(c) It appeared further that the Federal credit union members for whom stock was so purchased would reimburse the credit union (1) by cash payment, (2) by the proceeds of withdrawn shares of the credit union, (3) by the proceeds of an installment loan from the credit union collateraled by the stock purchased, or (4) by a combination of two or more of the above methods. To assist the collection of any such loan, the employer of the credit union members would provide payroll deductions. Apparently, sales by the credit union of any of the stock purchased by one of its members would occur only in satisfaction of a delinquent loan balance. In no case did it appear that the credit union would make a charge for arranging the execution of transactions in the stock for its members.

(d) The Board was of the view that, from the facts as presented, it did not appear that the Federal credit union should be regarded as the type of institution to which Part 221, of this subchapter in its present form, applied.

(e) With respect to this part, the question was whether the activities of the Federal credit union under the proposal, or otherwise, might be such as to bring it within the meaning of the terms "broker" or "dealer" as used in the part and the Securities Exchange Act of 1934. The Board observed that this, of course, was a question of fact that necessarily depended upon the circumstances of the particular case, including the manner in which the arrangement in question might be carried out in practice.

(f) On the basis of the information submitted, however, it did not appear to the Board that the Federal credit union should be regarded as being subject to this part as a "broker or dealer who transacts a business in securities through the medium of" a member firm solely because of its activities as contemplated by the proposal in question. The Board stated that the part rather clearly would not apply if there appeared to be nothing other than loans by the credit union to its members to finance purchases made directly by them of stock of the parent corporation of the employer of the member-borrowers. The additional fact that the credit union, as agent, would purchase such stock for its members (even though all such purchases might not be financed by credit union loans) was not viewed by the Board as sufficient to make the regulation applicable where, as from the facts presented, it did not appear that the credit union in any case was to make any charge or receive any compensation for assisting in such purchases or that the credit union otherwise was engaged in securities activities. However, the Board stated that matters of this kind must be examined closely for any variations that might suggest the inapplicability of the foregoing.

(Sec. 11, 38 Stat. 262; 12 U. S. C. 248, Interprets or applies secs. 3, 7, 8, 17, 23, 48 Stat. 882, 886, 888, 897, 901, as amended; 15 U. S. C. 78c, 78g, 78h, 78q, 78w)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 53-6809; Filed, Aug. 4, 1953; 8:48 a. m.]

[Reg. U]

PART 221—LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

FEDERAL CREDIT UNIONS

Section 221.104 is added as follows:

§ 221.104 *Federal credit unions.* For text of this interpretation, see § 220.110[1] of this subchapter.

(Sec. 11, 38 Stat. 262; 12 U. S. C. 248. Interprets or applies secs. 3, 7, 17, 23, 48 Stat. 882, 886, 897, 901, as amended; 15 U. S. C. 78c, 78g, 78q, 78w)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 53-6810; Filed, Aug. 4, 1953; 8:48 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6082]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ILLINOIS SEWING MACHINE DISTRIBUTORS ET AL.

Subpart—*Advertising falsely and misleadingly:* § 3.15 *Business status, advantages, or connections*—Retailer as wholesaler, jobber, or factory distributor; § 3.200 *Sample, offer or order conformance;* § 3.235 *Source or origin*—Maker—Place—*Imported products or parts as*

[1] See F. R. Doc. 53-6809, Part 220 of this subchapter, *supra.*

domestic. Subpart—*Appropriating trade name or mark wrongfully:* § 3.295 *Appropriating trade name or mark wrongfully*—Product. Subpart—*Misbranding or mislabeling:* § 3.1325 *Source or origin*—Maker or seller—Place—*Imported product or parts as domestic.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1860 *Imported product or parts as domestic.* Subpart—*Offering unfair improper and deceptive inducements to purchase or deal:* § 3.2060 *Sample, offer or order conformance.* Subpart—*Passing off:* § 3.2105 *Passing off.* Subpart—*Simulating competitor or another or product thereof:* § 3.2245 *Trade name of competitor's or other's product.* Subpart—*Using misleading name*—Goods: § 3.2345 *Source or origin*—Maker—Place—*Foreign product or parts as domestic*—Vendor: § 3.2460 *Retailer as wholesaler jobber or distributor* In connection with the offering for sale, sale, and distribution of sewing machines in commerce, (1) offering for sale, selling, or distributing foreign-made sewing machines, or sewing machines of which foreign-made heads are a part, without clearly and conspicuously disclosing on the heads the country of origin thereof, in such a manner that it cannot readily be hidden or obliterated; (2) using the word "Illinois" or any simulation thereof, as a brand or trade name, or as a part thereof, to designate, describe or refer to respondents' sewing machines, or representing through the use of any other word or words, or in any other manner, that said sewing machines are manufactured by anyone other than the actual manufacturer; (3) using the word "Distributor" or any simulation thereof, as a part of a corporate or trade name; or representing in any other manner that said respondents are distributors of the sewing machines sold by them; and (4) representing that certain sewing machines are offered for sale when such offer is not a bona fide offer to sell the machines so offered; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Rodney Distributors, Inc. (d. b. a. Illinois Sewing Machine Distributors) et al., Chicago, Ill., Docket 6082, July 8, 1953]

In the Matter of Rodney Distributors, Inc., a Corporation, Doing Business Under the Name of Illinois Sewing Machine Distributors; and Seymour Ratner Irwin Ratner Harold Ratner and Joseph Wandel, Individually and as Officers of Said Corporation

This proceeding was instituted by complaint which charged respondents with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

It was disposed of, as announced by the Commission's "Notice" dated July 13, 1953, through the consent settlement procedure provided in Rule V of the Commission's Rules of Practice as follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on July 8, 1953, and ordered entered of record as the Commission's findings as to the facts,[1] conclusion,[1] and order [1] in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

It is ordered, That the respondent Rodney Distributors, Inc., a corporation, doing business under its own or any other name, and its officers, and respondents Seymour Ratner, Irwin Ratner, Harold Ratner and Joseph Wandel, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing foreign-made sewing machines, or sewing machines of which foreign-made heads are a part, without clearly and conspicuously disclosing on the heads the country of origin thereof, in such a manner that it cannot readily be hidden or obliterated.

2. Using the word "Illinois," or any simulation thereof, as a brand or trade name, or as a part thereof, to designate, describe or refer to their sewing machines, or representing through the use of any other word or words, or in any other manner, that said sewing machines are manufactured by anyone other than the actual manufacturer.

3. Using the word "Distributor," or any simulation thereof, as a part of a corporate or trade name; or representing in any other manner that said respondents are distributors of the sewing machines sold by them.

4. Representing that certain sewing machines are offered for sale when such offer is not a bona fide offer to sell the machines so offered.

It is further ordered, That the respondents Rodney Distributors, Inc., a corporation, doing business under the name of Illinois Sewing Machine Distributors; and Seymour Ratner, Irwin Ratner, Harold Ratner, and Joseph Wandel, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 8th day of July 1953.

Issued: July 13, 1953.

By direction of the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-6815; Filed, Aug. 4, 1953; 8:49 a. m.]

[1] Filed as part of original document.

[Docket 5945]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

A. V. CAUGER SERVICE, INC.

Subpart—*Dealing on exclusive and tying basis:* § 3.670 *Dealing on exclusive and tying basis.* In connection with the sale, leasing, or distribution of commercial or advertising films in commerce, entering into contracts with motion picture exhibitors for the exclusive privilege of exhibiting commercial or advertising films in theaters owned, controlled, or operated by such exhibitors when the term of such contracts extends for a period in excess of one year, or continuing in operation or effect any exclusive screening provision in existing contracts when the unexpired term of such provision extends for a period of more than a year from the date of the service of the order; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, A. V. Cauger Service, Inc., Independence, Mo., Docket 5945, July 8, 1953]

This proceeding was instituted by complaint which charged respondent with the use of unfair methods of competition and unfair acts and practices in violation of the provisions of the Federal Trade Commission Act.

It was disposed of, as announced by the Commission's "Notice" dated July 13, 1953, through the consent settlement procedure provided in Rule V of the Commission's Rules of Practice as follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on July 8, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

Said order to cease and desist, thus entered of record, following the findings as to the facts [1] and conclusion,[1] reads as follows:

It is ordered, That the respondent, A. V. Cauger Service, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale, leasing or distribution of commercial or advertising films in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into contracts with motion picture exhibitors for the exclusive privilege of exhibiting commercial or advertising films in theaters owned, controlled or operated by such exhibitors when the term of such contracts extends for a period in excess on one year, or continuing in operation or effect any exclusive screening provision in existing contracts when the unexpired term of such provision extends for a period of more than a year from the date of the service of this order.

It is further ordered, That the respondent shall, within sixty (60) days

after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 8th day of July 1953.

Issued: July 13, 1953.

By direction of the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-6816; Filed, Aug. 4 1953; 8:49 a. m.]

[Docket 3977]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

CHAMPION SPARK PLUG CO.

Subpart—*Dealing on exclusive and tying basis:* § 3.670 *Dealing on exclusive and tying basis.* Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Price Discrimination Under 2 (a) § 3.715 *Charges and price differentials;* § 3.730 *Customer classification.* In or in connection with the sale, for replacement purposes, of spark plugs in commerce, (a) discriminating, directly or indirectly, in the price of said spark plugs of like grade and quality: (1) By selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price; (2) by selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price; (b) selling or making any contract or agreement for sale of spark plugs on the condition, agreement, or understanding that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent; (c) enforcing in any manner or continuing in operation or effect any condition, agreement, or understanding, or in connection with any existing contract or agreement for sale of spark plugs, which condition, agreement, or understanding is to the effect that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent; and (d) granting any rebate or fixing any price to any purchaser of spark plugs on the condition, agreement, or understanding that such purchaser shall not use or deal in the products of a competitor or competitors of the respondent; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply secs. 2 3, 38 Stat. 730, as amended, 731; 15 U. S. C. 13, 14) [Cease and desist order, Champion Spark Plug Company, Toledo, Ohio, Docket 3977, July 10, 1953]

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, answer of the respondent, testimony and other evidence in support of and in opposition to the allegations of said amended complaint taken before a hearing examiner of the Commission theretofore duly designated by it, recommended decision of the hearing examiner with exceptions thereto, briefs of counsel supporting the complaint, counsel for the respondent, and counsel for Kaiser-Frazer Corporation, Hudson Motor Car Company, Nash-Kelvinator Corporation, Packard Motor Car Company, and Willys-Overland Motors, Inc., as amici curiae, and oral argument of opposing counsel; and the Commission having issued its order disposing of the exceptions to the recommended decision and having made its findings as to the facts[1] and its conclusion[1] that respondent has violated subsection (a) of section 2 of the Clayton Act, as amended, and section 3 of said Clayton Act:

It is ordered, That respondent, Champion Spark Plug Company, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of spark plugs in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

(a) Discriminating, directly or indirectly, in the price of said spark plugs of like grade and quality:

1. By selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price.

2. By selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price.

(b) Selling or making any contract or agreement for sale of spark plugs on the condition, agreement, or understanding that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent.

(c) Enforcing in any manner or continuing in operation or effect any condition, agreement, or understanding, in or in connection with any existing contract or agreement for sale of spark plugs, which condition, agreement, or understanding is to the effect that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent.

(d) Granting any rebate or fixing any price to any purchaser of spark plugs on the condition, agreement, or understanding that such purchaser shall not use or deal in the products of a competitor or competitors of the respondent.

It is further ordered, That the allegations of Counts II, IV and Paragraphs Five and Seven of Count I of the amended complaint herein be, and they hereby are, dismissed.

It is further ordered, That the respondent, Champion Spark Plug Company, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: July 10, 1953.

By the Commission.

[SEAL] WM. P GLENDENING, JR., *Acting Secretary.*

[F. R. Doc. 53-6818; Filed, Aug. 4, 1953; 8:50 a. m.]

[1] Filed as part of original document.

[Docket 5620]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

GENERAL MOTORS CORP. AND AC SPARK PLUG CO.

Subpart—*Dealing on exclusive and tying basis:* § 3.670 *Dealing on exclusive and tying basis.* Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Price Discrimination under 2 (a) § 3.715 *Charges and price differentials;* § 3.730 *Customer classification.* In or in connection with the sale, for replacement purposes, of spark plugs, oil filters, oil filter cartridges, oil filter elements, fuel pumps, fuel pump part kits, speedometer cables, and related automotive parts and accessories in commerce, (a) discriminating, directly or indirectly, in the price of said products of like grade and quality: (1) by selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said products with the purchaser paying the higher price; (2) by selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said products with the purchaser paying the higher price; (b) selling or making any contract or agreement for sale of said products on the condition, agreement, or understanding that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondents; (c) enforcing in any manner or continuing in operation or effect any condition, agreement, or understanding, in or in connection with any existing contract or agreement for sale of said products, which condition, agreement, or understanding is to the effect that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondents; and (d) granting any rebate or fixing any price to any purchaser of said products on the condition, agreement, or understanding that such purchaser shall not use or deal in the products of a competitor or competitors of the respondents; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply secs. 2, 3, 38 Stat. 730, as amended, 731; 15 U. S. C. 13, 14) [Cease and desist order, General Motors Corporation et al., Detroit, Mich., Docket 5620, July 10, 1953]

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answers

of the respondents, testimony and other evidence in support of and in opposition to the allegations of said complaint taken before a hearing examiner of the Commission theretofore duly designated by it, recommended decision of the hearing examiner and exceptions thereto, briefs of counsel supporting the complaint, counsel for respondents, and counsel for Kaiser-Frazer Corporation, Hudson Motor Car Company, Nash-Kelvinator Corporation, Packard Motor Car Company, and Willys-Overland Motors, Inc., as amici curiae, and oral argument of opposing counsel; and the Commission having issued its order disposing of the exceptions to the recommended decision of the hearing examiner and having made its findings as to the facts[1] and its conclusion[1] that respondent General Motors Corporation has violated the provisions of subsection (a) of section 2 of the Clayton Act, as amended, and section 3 of said Clayton Act:

It is ordered, That respondent General Motors Corporation, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of spark plugs, oil filters, oil filter cartridges, oil filter elements, fuel pumps, fuel pump part kits, speedometer cables, and related automotive parts and accessories in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

(a) Discriminating, directly or indirectly, in the price of said products of like grade and quality:

1. By selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said products with the purchaser paying the higher price.

2. By selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said products with the purchaser paying the higher price.

(b) Selling or making any contract or agreement for sale of said products on the condition, agreement, or understanding that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent.

(c) Enforcing in any manner or continuing in operation or effect any condition, agreement, or understanding, in or in connection with any existing contract or agreement for sale of said products, which condition, agreement, or understanding is to the effect that the purchaser shall not use or deal in or sell the products of a competitor or competitors of the respondent.

(d) Granting any rebate or fixing any price to any purchaser of said products on the condition, agreement, or understanding that such purchaser shall not use or deal in the products of a competitor or competitors of the respondent.

It is further ordered, That the allegations in Count I of the complaint relating to respondent's price differences between (1) purchasers buying for original equipment and (2) purchasers buying for original equipment and purchasers buying for resale for replacement, and the allegations in Counts II and IV of the complaint, be, and they hereby are, dismissed.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent AC Spark Plug Company.

It is further ordered, That the respondent General Motors Corporation shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: July 10, 1953.

By the Commission.

[SEAL] WM. P. GLENDENING, Jr.,
Acting Secretary.

[F. R. Doc. 53-6817; Filed, Aug. 4, 1953; 8:50 a. m.]

[Docket 5624]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ELECTRIC AUTO-LITE CO.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Price discrimination under 2 (a) § 3.715 *Charges and price differentials;* § 3.730 *Customer classification.* In or in connection with the sale, for replacement purposes, of spark plugs in commerce, discriminating in the price of said spark plugs of like grade and quality, (1) by selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price; and (2) by selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, The Electric Auto-Lite Company, Toledo, Ohio, Docket 5624, July 10, 1953]

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, stipulated testimony, and other evidence in support of and in opposition to the allegations of said complaint taken before a hearing examiner of the Commission theretofore duly designated by it, recommended decision of the hearing examiner and exceptions thereto, briefs of counsel supporting the complaint, counsel for respondent, and counsel for Kaiser-Frazer Corporation, Hudson Motor Car Company, Nash-Kelvinator Corporation, Packard Motor Car Company, and Willys-Overland Motors, Inc., as amici curiae, and oral argument of opposing counsel; and the Commission having issued its order disposing of the exceptions to the recommended decision of the hearing examiner and having made its findings as to the facts[1] and its conclusion[1] that respondent has violated subsection (a) of section 2 of the Clayton Act, as amended:

It is ordered, That respondent, The Electric Auto-Lite Company, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of spark plugs in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in the price of said spark plugs of like grade and quality:

1. By selling to any direct purchaser at net prices higher than the net prices charged any other direct purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price.

2. By selling to any indirect purchaser at net prices higher than the net prices charged any other direct or indirect purchaser who in fact competes in the resale and distribution of said spark plugs with the purchaser paying the higher price.

It is further ordered, That the allegations in Count I of the complaint relating to respondent's price differences between (1) purchasers buying for original equipment and (2) purchasers buying for original equipment and purchasers buying for resale for replacement, and the allegations in Count II of the complaint, be, and they hereby are, dismissed.

It is further ordered, That the respondent, The Electric Auto-Lite Company, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: July 10, 1953.

By the Commission.

[SEAL] WM. P. GLENDENING, Jr.,
Acting Secretary.

[F. R. Doc. 53-6819; Filed, Aug. 4, 1953; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Reg. No. SR-385A]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

PART 61—SCHEDULED AIR CARRIER RULES

SPECIAL CIVIL AIR REGULATION; DELEGATION OF AUTHORITY TO ADMINISTRATOR TO PERMIT AIR CARRIERS UNDER CONTRACT TO MILITARY SERVICES TO DEVIATE FROM CIVIL AIR REGULATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 31st day of July 1953.

[1] Filed as part of original document.

Some time ago the Air Transport Association (ATA) on behalf of several scheduled air carriers under contract to the military services requested that authority be granted to such carriers to permit them to deviate from certain provisions of Parts 40, 41, 42, 45, and 61 of the Civil Air Regulations, under which they were then required to operate, in order to permit such carriers to accomplish expeditiously the mission assigned them by the military services. ATA stated that, in view of the type of operations which these carriers had been requested to perform, certain provisions of those parts imposed an undue burden upon the air carriers involved. It appeared that several difficulties encountered in complying with current regulations resulted from the fact that some of the air carriers were acting in the capacity of prime contractors with the military services, while others were acting as subcontractors and were merely furnishing aircraft and/or flight crews to another air carrier for use in operations conducted pursuant to the military contracts. It should be noted that Parts 40, 41, 42, 45, and 61 were designed to be applicable to scheduled and irregular air carrier operations performed under normal operating conditions. The Board believed that the type of operation which air carriers were expected to perform in executing their obligations under military contracts was a specialized type of operation different in many respects from the normal type of air carrier operation envisaged by the then current Civil Air Regulations relating to air carrier operations. For those reasons, the Board, on July 28, 1950, adopted Special Civil Air Regulation SR–349 which delegated authority to the Administrator to permit air carriers under contract to the military services to deviate from certain parts of the Civil Air Regulations in performing such contracts, such authority to terminate on August 1, 1951. This authority was extended to August 1, 1952, by SR–367 and to August 1, 1953, by SR–385.

On July 9, 1953, the Board published as a notice of proposed rule making in the FEDERAL REGISTER (18 F R. 4032) and circulated as Draft Release No. 53–10 dated July 8, 1953, a proposal to extend for one year the authority provided in SR–385 to August 1, 1954. As a result of comment received in response to the July 9, 1953, notice of proposed rule making, it appears that a controversy exists with respect to continuation of the authority granted by SR–385.

Objection to further extension of the rule was predicated upon assertions that the emergency for which this authority was granted no longer exists. In view of this controversy, it appears to the Board that further investigation should be made to determine the necessity for continuation of the rule and additional opportunity be given to interested parties to present comment to the Board. Until such investigation can be completed, the Board considers that the authority contained in SR–385 should be continued. Accordingly, the Board concludes that the provisions of SR–385 should be extended for three months to maintain the delegated authority in the Administrator without lapse. Since this regulation imposes no additional burden on any person, it may be made effective on less than 30 days' notice.

The Board considers it necessary to continue to limit the operations conducted pursuant to any deviation granted by the Administrator to those operations conducted pursuant to military contracts and to require that all operations conducted in accordance with such deviations be conducted in accordance with such terms and conditions as the Administrator may prescribe in granting the deviation. It is anticipated that the Administrator will continue, as part of the procedure in issuing a deviation of major importance, to coordinate his decision with the Board and the appropriate military authorities.

The regulation has been changed by deleting the words "or desirable" from the phrase "necessary or desirable" as contained in paragraph 1 of SR–385. This change was made because of difficulty encountered in the administration of the regulation which resulted from some air carriers seeking to place an interpretation on the word "desirable" which would in effect require the Administrator to grant a waiver of such provisions as the air carrier considered desirable. Since the purpose of the regulation is to permit the Administrator to issue waivers in those instances where it is essential to the operations being conducted, it is considered that the air carrier or the Department of Defense should bear the burden of establishing the necessity for deviation from the regulations.

In consideration of the foregoing the Civil Aeronautics Board hereby makes and promulgates a Special Civil Air Regulation, effective August 1, 1953, to read as follows:

1. Contrary provisions of the Civil Air Regulations notwithstanding, the Administrator may upon application by an air carrier, authorize an air carrier under contract to the military services, or an air carrier furnishing civil aircraft and/or flight crews to another air carrier for use in operations conducted pursuant to a contract with the military services, to deviate from the applicable provisions of Parts 40 (including revised Part 40) 41, 42, 45, and 61 to the extent that he finds upon investigation a deviation from those regulations is necessary for the expeditious conduct of such operations.

2. Any authority granted by the Administrator pursuant to this regulation shall be limited to those operations conducted pursuant to military contracts and shall not be applicable to any other type of operation.

3. The Administrator shall, in any authorization granted pursuant to this regulation, specify the terms and conditions under which the air carrier may deviate from the currently prescribed regulations, and each carrier shall, in the conduct of operations pursuant to military contracts, comply with such terms and conditions.

This regulation shall terminate November 1, 1953, unless sooner superseded or rescinded.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F R. Doc. 53–6833; Filed, Aug. 4, 1953; 8:53 a. m.]

Subchapter B—Economic Regulations

[Reg. ER–187]

PART 223—TARIFFS OF AIR CARRIERS; FREE AND REDUCED RATE TRANSPORTATION

PERSONS TO WHOM FREE AND REDUCED RATE TRANSPORTATION MAY BE FURNISHED

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 28th day of July 1953.

At the present time § 223.2 (b) provides, in part, that all air carriers engaged in overseas or foreign air transportation may furnish free or reduced rate transportation to:

(b) Directors, officers, and employees and members of their immediate families, of any person operating as a common carrier by air, or in the carriage of mails by air, or conducting transportation by air, in a foreign country, but only over routes and in territories served in such foreign country.

This authorization is more limited in its geographical scope than the specific grant of authority contained in section 403 (b) of the act, which permits air carriers and foreign air carriers, subject to terms and conditions prescribed by the Board, to offer free or reduced rate transportation to officers, directors, and employees of other air carriers and foreign air carriers.

By petition filed with the Board on March 16, 1953, Pan American World Airways, Inc., requested that the foregoing § 223.2 (b) of the regulations be amended, so as to permit the grant of free or reduced rate transportation, without the limitations specified in that section, to carriers which do not fall within the categories of "air carrier" or "foreign air carrier" as defined by the act. The proposal of Pan American was thereafter circulated for comment by the Board as a Notice of Proposed Rule-Making in response to petition as Draft Release No. 61. No adverse comments were received. The Board is impressed with the arguments advanced by the petitioner in support of its petition and by those of the other interested persons who have commented on the proposed rule and believes that no useful purpose will be served by continuing to restrict this authorization for the furnishing of free and reduced rate transportation to the routes operated and the territory served in the foreign country of the other common carriers by air.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. Since this regulation operates to relieve carriers from

restriction, it may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 223 of the Economic Regulations (14 CFR Part 223) effective immediately.

By amending § 223.2 (b) to read as follows:

(b) Directors, officers, and employees and members of their immediate families, of any person operating as a common carrier by air, or in the carriage of mails by air, or conducting transportation by air, in a foreign country· and

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies sec. 403, 52 Stat. 992; 49 U. S. C. 483)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-6832; Filed, Aug. 4, 1953; 8:53 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

Subchapter C—Aircraft Regulations

[Amdt. 1]

PART 502—DEALERS' AIRCRAFT REGISTRATION CERTIFICATES

AREA OF VALIDITY

The purpose of this amendment is to specify the area within which a dealers' aircraft registration certificate is valid. Section 502.4 (a) published on April 30, 1947, in 12 F. R. 2804, is amended by adding a new subparagraph (3) to read:

§ 502.4 *Limitations*—(a) *Operation.* * * *

(3) A dealers' aircraft registration certificate is valid for an aircraft only while the aircraft is operated within the United States. As used in this subparagraph, "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the Territorial waters and the overlying airspace thereof.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 501, 52 Stat. 1005, as amended; 49 U. S. C. 521)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] F B. LEE, *Administrator of Civil Aeronautics.*

[F. R. Doc. 53-6790; Filed, Aug. 4, 1953; 8:45 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 203—CONDUCT OF MEMBERS AND EMPLOYEES AND FORMER MEMBERS AND EMPLOYEES OF THE COMMISSION

OUTSIDE OF PRIVATE EMPLOYMENT

Statement of purpose. The Securities and Exchange Commission recently adopted a regulation regarding conduct of members and employees and former members and employees of the Commission. The Commission has now decided to add a new paragraph to Rule 2 under that regulation in order to formalize its practice regarding clearance of articles and treatises published by employees relating to the Commission or the statutes or rules that it administers.

The Commission deems this amendment to be included within the exception in section 4 (a) of the Administrative Procedure Act applicable, among other things, to "rules of agency organization, procedure, or practice," and deems notice and public procedures of the character specified in that section to be unnecessary. The Commission deems that the amendment is not subject to the provision of section 4 (c) of the Administrative Procedure Act relating to the effective date of substantive rules.

Statutory basis. This amendment is adopted pursuant to the authority conferred upon the Commission by the various statutes administered by it, particularly section 19 (a) of the Securities Act of 1933, section 23 (a) of the Securities Exchange Act of 1934, section 20 (a) of the Public Utility Holding Company Act of 1935, Section 319 of the Trust Indenture Act of 1939, section 38 (a) of the Investment Company Act of 1940, and section 211 (a) of the Investment Advisers Act of 1940.

Text of amendment. Section 203.2 (Rule 2) of the regulation regarding conduct of members and employees and former members and employees of the Commission is hereby amended by the addition of a new paragraph (f) reading as follows:

§ 203.2 *Outside or private employment.* * * *

(f) No employee shall publish any article or treaties relating to the Commission or the statutes and rules that it administers without having obtained clearance from the Commission. The proposed publication will be examined to determine whether it contains confidential information or whether there is any reason why the publication of the employee's private views on the subject matter would be otherwise inappropriate. Clearance for publication will not involve adoption of or concurrence in the views expressed, and any such publication shall include at an appropriate place by way of footnote or otherwise the following disclaimer of responsibility·

The Securities and Exchange Commission, as a matter of policy, disclaims responsibility for any private publication by any of its employees. The views expressed herein are those of the author and do not necessarily reflect the views of the Commission or of the author's colleagues upon the staff of the Commission.

The amendment shall become effective July 28, 1953.

(Secs. 19, 23, 48 Stat. 85, 901 as amended; sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U. S. C. 77s, 77sss, 78w, 79t, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 28, 1953.

[F. R. Doc. 53-6796; Filed, Aug. 4, 1953; 8:46 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Defense Mobilization

REVOCATION OF DEFENSE MOBILIZATION ORDER 18 AND REDESIGNATION OF AMENDMENTS THERETO

1. Defense Mobilization Order No. 18 (17 F. R. 4926) is revoked effective August 3, 1953, inasmuch as its pertinent provisions were redistributed by amendments 1 and 2 published at 18 F. R. 4518.

2. Amendment 1 is redesignated as Defense Mobilization Order No. 18A, and its headnote will read as follows:

DMO 18A—Providing for the Transfer to the Department of Defense of the Management of the Department of Defense Equipment in the Central Inventory of Production Equipment Group.

3. Amendment 2 is redesignated as Defense Mobilization Order No. 18B, and its headnote will read as follows:

DMO 18B—Providing for the Establishment of a Defense Mobilization Production Equipment Inventory.

OFFICE OF DEFENSE MOBILIZATION,
ARTHUR S. FLEMMING, *Director*

[F. R. Doc. 53-6901; Filed, Aug. 4, 1953; 11:14 a. m.]

[Defense Mobilization Order No. 29]

ESTABLISHING THE DEFENSE RENTAL AREAS DIVISION

By virtue of the authority vested in me by Executive Order 10475 of July 31, 1953, "Administration of the Housing and Rent Act of 1947, as amended" it is hereby ordered:

There is hereby established the Defense Rental Areas Division within the Office of Defense Mobilization and the position of Director of the Defense Rental Areas Division. The Director shall:

1. Be responsible for all the functions under the Housing and Rent Act of 1947, as amended, delegated to the Director of the Office of Defense Mobilization by Executive Order 10475 of July 31, 1953, "Administration of the Housing and Rent Act of 1947, as amended"

2. Provide for the transfer from the Office of Rent Stabilization to the Office of Defense Mobilization of the records, property, and funds of the Office of Rent Stabilization and so much of the personnel of that Office as he may deem necessary for the carrying out of the functions vested in me by Executive Order 10475 of July 31, 1953, "Administration of the Housing and Rent Act of 1947, as amended"

This order shall take effect August 3, 1953.

OFFICE OF DEFENSE MOBILIZATION,
ARTHUR S. FLEMMING, *Director.*

[F. R. Doc. 53-6902; Filed, Aug. 4, 1953; 11:14 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

LAKE ERIE, WEST END

Pursuant to the provisions of Chapter XIX of the Army Appropriation Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3) § 204.187 (b) governing the use and navigation of the waters of Lake Erie north of Erie Ordnance Depot, heretofore prescribed as a danger zone for antiaircraft artillery firing from Camp Perry and Locust Point, Ohio, by units under the jurisdiction of Headquarters, Second Army, Fort George G. Meade, Maryland, is hereby amended extending the period for antiaircraft artillery firing from June 15 through March 15 of the succeeding year, effective on and after publication of this amendment in the FEDERAL REGISTER due to the urgent necessity for continuing operations after August 10, 1953, as follows:

NOTE: Paragraph (b) of this section shall be subject to review by the Department of the Army with a view to further limiting the period of use prior to the commencement of operations in 1954 and each year thereafter.

§ 204.187 *Lake Erie, west end, north of Erie Ordnance Depot, Lacarne, Ohio.* * * *

(b) *Areas for antiaircraft artillery firing from Camp Perry and Locust Point, Ohio*—(1) *The areas*—(i) *Antiaircraft artillery firing area.* That part of Lake Erie within an area extending north from Erie Ordnance Depot, Lacarne, Ohio, bounded as follows: Beginning at a point on the south shore of Lake Erie at longitude 83°05'19" in the vicinity of Locust Point; thence to latitude 41°45'14" longitude 83°12'18" thence to latitude 41°46'45" longitude 83°11'23" thence to latitude 41°48'58" longitude 83°05'54" thence to latitude 41°42'52" longitude 82°52'47" thence to latitude 41°38'36" longitude 82°56'49", thence approximately 215°04' true to a point on the south shore of Lake Erie where the water intake pipe line intersects the shore line; thence northwesterly along the shore to the point of beginning.

(ii) *Automatic weapons area.* That part of Lake Erie bounded as follows: Beginning at a point on the south shore of Lake Erie at Camp Perry where the water intake pipe line intersects the shore line; thence to latitude 41°38'36" longitude 82°56'49" thence to latitude 41°35'31" longitude 82°54'47" thence approximately 241°15' true to a point on the shore of Lake Erie at the Camp Perry pier; thence northwesterly along the shore to the point of beginning.

(2) *The regulations*—(i) *Antiaircraft artillery firing.* Antiaircraft artillery firing will be conducted from 8:30 a. m. to noon and from 1:00 to 4:30 p. m., on all days other than Saturdays, Sundays and holidays between June 16 and November 30, inclusive; firing between December 1 and March 15, inclusive, will be unrestricted as to the days of the week and hour of the day.

(ii) *Automatic weapons firing.* The automatic weapons area will be a surface danger zone and closed to navigation only during the firing of such weapons. Special notices of such firing and the dates and hours thereof will be published by the enforcing agency in sufficient time to permit circularization to interested parties and posting on the bulletin boards of post offices in surrounding localities. No firing will be scheduled on Saturdays, Sundays and holidays between June 16 and November 30, both dates inclusive.

(iii) *Navigation prohibited.* No vessel shall enter or remain in a danger zone during a firing period unless specific permission is granted in each case by one of the representatives of the enforcing agency policing the area in patrol boats. These boats will be in constant radio communication with the Safety Controls Station, Erie Ordnance Depot, and the danger zone will be under radar and visual surveillance when in use.

(iv) *Suspension of firing.* The Commanding Officer, Erie Ordnance Depot, shall have the authority to suspend all or any firing for reasonable periods during regattas and immediately after nets are destroyed or dislocated by severe storms.

(v) *Warning flag.* On days when antiaircraft artillery firing is to be conducted a large red flag will be displayed from the range observation tower at the Erie Ordnance Depot from 7:00 a. m. until firing ceases for the day.

(vi) *Enforcing agency.* The danger zones and the patrolling thereof shall be under the control of the Commanding Officer, Erie Ordnance Depot, and such agencies as he may designate. Equipment used in clearing the areas will fly or expose a square red flag.

(vii) *Restrictions on navigation.* The restrictions imposed on navigation by this paragraph are in addition to those imposed by paragraph (a) of this section.

[Regs., July 23, 1953, 800.2121 (Erie Lake)—ENGWO] (40 Stat. 892; 33 U. S. C. 3)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-6814; Filed, Aug. 4, 1953; 8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 906]

NEW MEXICO

EXCLUDING CERTAIN LANDS FROM THE GILA NATIONAL FOREST

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F R. 4831) and upon recommendation of the Under Secretary of Agriculture, it is ordered as follows:

The following-described lands are hereby excluded from the area now within the boundaries of the Gila National Forest, New Mexico, and the boundaries of the said forest are adjusted accordingly.

NEW MEXICO PRINCIPAL MERIDIAN

T. 5 S., R. 10 W.,
Sec. 26, S½,
Sec. 27;
Sec. 28 to 35, inclusive.
T. 6 S., R. 9 W.,
Sec. 19, 30 and 31.
T. 6 S., R. 10 W.
Secs. 2 to 11, inclusive;
Secs. 14 to 30, inclusive;
Secs. 34, 35 and 36.
T. 6 S., R. 11 W.,
Secs. 1, 2 and 3;
Secs. 10 to 15, inclusive.

The areas described aggregate approximately 32,480 acres.

All of the lands described have been patented.

ORME LEWIS,
Assistant Secretary of the Interior

JULY 30, 1953.

[F R. Doc. 53-6791; Filed, Aug. 4, 1953; 8:45 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter A—Practice and Procedure

[Gen. Order 41, 2d Rev., Amdt. 1]

PART 201—RULES OF PRACTICE AND PROCEDURE BEFORE THE FEDERAL MARITIME BOARD AND THE MARITIME ADMINISTRATION [1]

MISCELLANEOUS AMENDMENTS

Whereas, the Federal Maritime Board and the Maritime Administration find that certain minor amendments and corrections should be made in § 201.147 *Authority of presiding officer,* paragraph (b) of § 201.157 *Written evidence,* and the heading designated Subpart M—Briefs; Requests for Findings; Decisions; Exemptions of this part (Gen. Order 41, 2d Rev.) published in the FEDERAL REGISTER (18 F R. 3716-3726), as hereinafter set forth:

It is ordered, That effective on July 31, 1953, General Order 41, 2d Revision be, and the same is hereby, amended as follows:

1. In § 201.147 delete the words "admit competent" immediately following the words "rule upon offers of proof and" and insert in lieu thereof the words "receive relevant, material, reliable and probative"

2. In § 201.147 delete the words "and upon appearances by nonintervenors" immediately following the words "act upon petitions to intervene"

3. In paragraph (b) of § 201.157 delete the word "competent" immediately following the words "opportunity to participate through submission of" and insert in lieu thereof the words "relevant, material, reliable and probative"

[1] Copies of the rules as amended by this order can be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., at 30 cents per copy.

4. Delete the word "Exemptions" from the headnote designated "Subpart M" and insert in lieu thereof the word "Exceptions"

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: July 31, 1953.

By order of the Federal Maritime Board.

A. J. WILLIAMS,
Secretary.

By order of the Maritime Administration.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 53-6826; Filed, Aug. 4, 1953; 8:53 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 81]

[Regs. 105]

REGULATIONS RELATING TO ESTATE TAX

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of thirty days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 3791 of the Internal Revenue Code (53 Stat. 467; 26 U. S. C. 3791).

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

In order to conform Regulations 105 (26 CFR Part 81) to sections 1 and 2 of Public Law 58 (82d Congress, 1st Session) approved June 28, 1951, relating to taxability for purposes of the estate tax of property subject to a power of appointment, such regulations are amended as follows:

PARAGRAPH 1. The statutory provisions immediately following section 802 of the Internal Revenue Code and preceding section 302 (f) of the Revenue Act of 1926 (as originally enacted) which precede § 81.24 are deleted.

PAR. 2. There is inserted immediately after section 802 of the Internal Revenue Code and preceding section 302 (f) of the Revenue Act of 1926 (as originally enacted) as set forth preceding § 81.24 the following:

SEC. 403. POWERS OF APPOINTMENT (REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942).

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(d) *Powers with respect to which amendment not applicable.*

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(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this act, which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

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PUBLIC LAW 58 (82D CONGRESS), APPROVED JUNE 28, 1951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Powers of Appointment Act of 1951"

SEC. 2. ESTATE TAX—POWERS OF APPOINTMENT.

(a) Section 811 (f) of the Internal Revenue Code (relating to powers of appointment) is hereby amended to read as follows:

(f) *Powers of appointment*—(1) *Property with respect to which decedent exercises a general power of appointment created on or before October 21, 1942.* To the extent of any property with respect to which a general power of appointment created on or before October 21, 1942, is exercised by the decedent (1) by will or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c) or (d); but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof.

If before November 1, 1951, or within the time limited by paragraph (2) of section 403 (d) of the Revenue Act of 1942, as amended, in cases to which such paragraph is applicable, a general power of appointment created on or before October 21, 1942, shall have been partially released so that it is no longer a general power of appointment, the subsequent exercise of such power shall not be deemed to be the exercise of a general power of appointment.

(2) *Powers created after October 21, 1942.* To the extent of any property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c) or (d). A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power.

For the purposes of this paragraph (2) the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(3) *Definition of general power of appointment.* For the purposes of this subsection the term "general power of appointment" means a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate; except that—

(A) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the decedent only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the decedent only in conjunction with another person—

(i) If the power is not exercisable by the decedent except in conjunction with the creator of the power—such power shall not be deemed a general power of appointment.

(ii) If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent—such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

(iii) If (after the application of clauses (i) and (ii)) the power is a general power of appointment and is exercisable in favor of such other person—such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such person (including the decedent) in favor of whom such power is exercisable.

For the purposes of clauses (ii) and (iii) a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(4) *Creation of another power in certain cases.* To the extent of any property with respect to which the decedent (1) by will or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under subsection (c), exercises a power of appointment created after October 21, 1942, by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(5) *Lapse of power.* The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The rule of the preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property which could have been appointed by exercise of such lapsed powers exceeded in value, at the time of such lapse, the greater of the following amounts:

(A) $5,000, or

(B) 5 percentum of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.

(b) *Date of creation of power.* For the purposes of this section a power of appointment created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(c) *Effective date.* The amendments made by this section shall be effective as if made by section 403 of the Revenue Act of 1942 on the date of its enactment (applicable with respect to estates of decedents dying after October 21, 1942).

PAR. 3. Section 81.24, as amended by Treasury Decision 5810, approved October 5, 1950, is further amended to read as follows:

§ 81.24 *Property subject to power of appointment by decedent*—(a) *General*—(1) *Introduction.* Subject to the rules prescribed hereinafter, the provisions of section 811 (f) of the Internal Revenue Code require the inclusion in decedent's estate of the value of property in respect of which the decedent possessed, exercised, or released certain powers of appointment. This paragraph contains rules of general application; paragraph (b) (1) of this section contains rules specifically applicable to general powers of appointment created on or before October 21, 1942, in respect of estates of decedents dying after that date; paragraph (b) (2) of this section sets forth specific rules applicable to powers of appointment created after October 21, 1942; and paragraph (c) of this section contains the rules in respect of estates of decedents dying on or before October 21, 1942.

(2) *Power of appointment.* (i) The term "power of appointment" includes all powers which are in substance and effect powers of appointment regardless of the nomenclature used in creating the power and regardless of local property law connotations. For example, if a transfer in trust provides that the beneficiary may appropriate or consume the principal of the trust, such power to consume or appropriate is a power of appointment. Similarly, a power given to a donee to alter, amend, revoke or terminate a trust is a power of appointment. If the community property laws of a state confer upon the wife a power of testamentary disposition over property in which she does not have a vested interest she is considered as having a power of appointment. A power in the decedent to remove or discharge a trustee and appoint himself may be a power of appointment. On the other hand the mere power of management, investment, or custody of assets exercisable in a fiduciary capacity whereby the holder has no power to enlarge or shift any of the beneficial interests therein is not a power of appointment. Further, the right in a beneficiary of an inter vivos trust to assent to a periodic accounting thereby relieving the trustee from further accountability is not a power of appointment if such right of assent does not consist of any power or right to enlarge or shift the beneficial interests of any beneficiary therein.

(ii) For the purpose of this section, the term "power of appointment" does not include powers reserved by the decedent to himself within the concept of section 811 (c) or (d) (See §§ 81.15 through 81.21.) No provision of section 811 (f) or of this section is to be construed as in any way limiting the application of any other section of the Internal Revenue Code or of the regulations in this part. For example, if a trust provides for payment of the income to A for life with power in A to appoint the remainder by will and, in default of such appointment for payment of the income to A's widow, W and for payment of the remainder to A's son, John, if he survives W, otherwise to A's estate, there is includible in A's gross estate under section 811 (a) the value of his interest in the remainder whether or not the power is exercised and whether or not the power was created before, on, or after October 21, 1942.

(iii) Where a power of appointment exists only as to part of an entire group of assets or only in respect of a limited interest in property, this section shall apply only to such part or interest.

(3) *General power of appointment.* (i) For purposes of this section, the term "general power of appointment" except as limited in paragraph (b) of this section, means any power of appointment exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate. A power of appointment exercisable to meet the estate tax, and any other taxes, debts, and charges which are enforceable against the estate, is included within the meaning of a power of appointment exercisable in favor of the decedent's estate or the creditors of his estate. A power of appointment exercisable for the purpose of discharging a legal obligation of the decedent or for his pecuniary benefit is considered a power of appointment exercisable in favor of the decedent or his creditors.

(ii) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent, shall not be deemed a general power of appointment. Whether a power is limited by an ascertainable standard will be determined by applying the principles followed in ascertaining the extent to which, if any, a bequest to a trust for private and charitable purposes is allowable as a deduction under section 812 (d) A power to consume, invade, or appropriate property for comfort, pleasure, desire, or happiness is not a power limited by an ascertainable standard.

(4) *Instruments to be filed with return.* Duplicate copies of the instrument granting the power and, if the power was disclaimed, renounced, exercised or released by an instrument, such instrument, one of each to be certified or verified, must be filed with Form 706 in all cases, unless the decedent was a nonresident, in which case only one copy of each instrument, certified or verified, is required. The copies must be filed even though it is contended that the power was not a general power of appointment and the property is not returned for tax.

(b) *Estates of decedents dying after October 21, 1942*—(1) *General powers of appointment created on or before October 21, 1942.* (i) In the case of a general power of appointment created on or before October 21, 1942, section 811 (f) (1) requires the inclusion in the gross estate of the decedent of the value of property with respect to which such a power is exercised by the decedent (*a*) by will, or (*b*) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) (relating to transfers in contemplation of, or taking effect at, death, or in which possession or enjoyment is retained until death) or section 811 (d) (relating to transfers with power reserved to alter, amend, revoke, or terminate) Section 811 (f) (3) (B) provides that a power created on or before October 21, 1942, which is not exercisable by the decedent except in conjunction with another person, shall not be deemed a general power of appointment. See paragraph (a) (3) of this section for definition of a general power of appointment. The rules of section 811 (c) or (d) which are to be applied are those in effect on the date of decedent's death which are applicable to transfers made on the date when the exercise of the power occurred. Thus, if a decedent, who exercises a general power of appointment by deed, dies after September 23, 1950, the date of enactment of the Revenue Act of 1950, such exercise may not be considered as in contemplation of death unless made within three years prior to the decedent's death. See section 811 (1) and § 81.16. Similarly, if the decedent, before October 8, 1949, exercises a general power of appointment by making a disposition in trust taking effect at death under which he retains a reversionary interest worth less than 5 percent of the value of the transferred property, the exercise of the power does not cause the property to be includible in the gross estate of the decedent since, if it had been a transfer of property owned by the decedent, it would not have been includible under section 811 (c) (1) (C) See § 81.17 (c) On the other hand, if the decedent, on or after October 8, 1949, exercises a general power of appointment by a disposition under which possession or enjoyment of property subject to the exercise can be obtained only by surviving the decedent, the transferred property will be includible in the decedent's gross estate to the same extent as if the disposition had constituted a transfer by the decedent of property of which he was the owner.

(ii) In the case of estates of decedents dying after October 21, 1942, a power of appointment is exercised where the property subject thereto is appointed to the taker in default of appointment regardless of whether or not the appointed interest and the interest in default of appointment are identical, and regardless of whether or not the appointee renounces any right to take under the appointment.

(iii) A failure to exercise a general power of appointment created before October 21, 1942, or a complete release of such a power is not considered to be an

exercise of a general power of appointment. An exercise which concurrently carries with it a complete relinquishment of the power of appointment or an exercise followed by a complete relinquishment of the power of appointment is deemed an exercise and not a release of the power of appointment. If a general power of appointment is partially released so that it is not thereafter a general power of appointment, a subsequent exercise of such partially released power shall not be deemed the exercise of a general power of appointment if such partial release occurs prior to whichever is the later of the following dates:

(a) November 1, 1951,

(b) If the decedent was under a legal disability to release such power on October 21, 1942, the day after the expiration of six months following the termination of such legal disability. See section 403 (d) (2) of the Revenue Act of 1942, as amended.

However, if the general power is partially released on or after November 1, 1951 (except where such partial release is effected within the period of six months following the termination of the legal disability referred to in the preceding sentence) and is thereafter exercised, such exercise will constitute the exercise of a general power of appointment.

(iv) The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that the type of general power of appointment possessed by the decedent actually was not generally releasable under the local law does not place the decedent under a legal disability within the meaning of subdivision (iii) (b) of this subparagraph.

(v) In general, it is assumed that all general powers of appointment are releasable, unless the local law on the subject is to the contrary, and it is presumed that the method employed to release the power is effective, unless it is not in accordance with the local law relating specifically to releases or, in the absence of such local law, is not in accordance with the local law relating to similar transactions.

(vi) A power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will died before July 1, 1949, without having republished such will, by codicil, or otherwise, after October 21, 1942.

(2) *General powers created after October 21, 1942*—(i) *In general.* (a) Section 811 (f) (2) requires the inclusion in the gross estate of a decedent of the value of all property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942. For definition of a general power of appointment, see paragraph (a) (3) of this section and for rules applicable to joint powers see subdivision (ii) of this subparagraph. The value of such property is includible in the gross estate whether or not such power is exercised. For purposes of section 811 (f) (2), a power of appointment is considered to exist on the date of the decedent's death where the time for the exercise of the power is determined by the date of his death. It is also considered to exist on the date of the decedent's death even though the exercise of the power is subject to the precedent giving of notice, or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the decedent's death notice has been given or the power has been exercised.

(b) The statute also requires, except in case of a bona fide sale for an adequate and full consideration in money or money's worth, the inclusion in the gross estate of property with respect to which the decedent has exercised or released a general power of appointment by a disposition which is of such a nature that, if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) or (d) The principles set forth in subparagraph (1) of this paragraph for determining the application of the pertinent provisions of section 811 (c) or (d) to a particular exercise of a power of appointment are applicable for purposes of determining whether an exercise or release of a power of appointment created after October 21, 1942, causes the property to be included in the decedent's estate under section 811 (f) (2)

(ii) *Joint powers created after October 21, 1942.* The following rules shall apply with respect to a power of appointment created after October 21, 1942, which is exercisable only in conjunction with another person:

(a) Such a power shall not be considered as a general power of appointment if it is not exercisable by the decedent except with the consent or joinder of the creator of the power.

(b) Such a power shall not be considered as a general power of appointment if it is not exercisable by the decedent except with the consent or joinder of a person having a substantial interest in the property subject to the power which is adverse to the exercise of the power in favor of the decedent, his estate, his creditors, or the creditors of his estate. A taker in default of appointment has an interest which is adverse to such an exercise. A coholder of the power has no adverse interest merely because of his joint possession of the power nor merely because he is a permissible appointee under a power. However, a coholder of a power is considered as having an adverse interest where he may possess the power after the decedent's death and may exercise it at that time in favor of himself, his estate, his creditors, or the creditors of his estate. Thus, for example, if X, Y, and Z hold a power jointly to appoint among a group of persons which includes themselves and on the death of X the power will pass to Y and Z jointly, then Y and Z are considered to have interests adverse to the exercise of the power in favor of X.

(c) A power which is exercisable only in conjunction with another person and which after application of the rules set forth in (a) and (b) of this subdivision, constitutes a general power of appointment will be treated as though the holders of the power who are permissible appointees of the property were joint owners of property subject to the power. The decedent, under this rule, will be treated as possessed of a general power of appointment over an aliquot share of the property to be determined with reference to the number of joint holders, including the decedent, who (or whose estates or creditors) are permissible appointees. Thus, for example, if X, Y, and Z hold an unlimited power jointly to appoint among a group of persons, including themselves, but on the death of X the power does not pass to Y and Z jointly, then Y and Z are not considered to have interest adverse to the exercise of the power in favor of X. In this case, X is considered to possess a general power of appointment as to one-third of the property subject to the power.

(iii) *Releases and lapses of general powers of appointment.* (a) A release of a power of appointment need not be formal or express in character. The failure to exercise a power of appointment created after October 21, 1942, within a specified time, so that the power lapses, constitutes a release of the power. However, section 811 (f) (5) provides that such a lapse of a power of appointment during any calendar year shall be treated as a release for purposes of inclusion of property in the gross estate under section 811 (f) (2) only to the extent that the property which could have been appointed by exercise of such lapsed power exceeds the greater of (1) $5,000 or (2) 5 percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied. Thus, for example, if an individual has a noncumulative right to withdraw $10,000 a year from the principal of $200,000 trust fund (which neither increases nor decreases in value prior to death), the failure to exercise this right of withdrawal will not result in estate tax with respect to the power to withdraw $10,000 which lapses each year prior to the year of death. At death there will be included in the gross estate of the holder of the power the $10,000 which he was entitled to withdraw for the year in which his death occurs less any amount which he may have taken during such year. However, if in the above example the holder of the power had had the right to withdraw $15,000 annually, the failure to exercise this power in any year will be considered a release of the power to the extent of the excess of the amount subject to withdrawal over 5 percent of the trust fund (in this example, $5,000, if the trust fund is worth $200,000 at the time of the lapse).

(b) The purpose of section 811 (f) (5) is to provide a determination, as of the date of the lapse of the power, of the proportion of the property over which the power lapsed which is an exempt disposition for estate tax purposes and the proportion thereof which, if the other

requirements of section 811 are satisfied, will be considered as a taxable disposition. Once the taxable proportion of any disposition at the date of lapse has been determined, the valuation of that proportion as of the date of the decedent's death (or, if the executor has elected the valuation provided by section 811 (j) the value as of the date therein provided) is to be ascertained in accordance with the principles which are applicable to the valuation of transfers of property by the decedent under the corresponding provisions of section 811 (c) and (d) Where the failure to exercise the power, such as the right of withdrawal, occurs in more than a single year, the proportion of the property over which the power lapsed which is treated as a taxable disposition will be determined separately for each such year. The aggregate of the taxable proportions for all such years, valued in accordance with the above principles, will be includible in the gross estate by reason of the lapse. The includible amount, however, shall not exceed the aggregate value of the assets out of which, or the proceeds of which, the exercise of the power could have been satisfied, valued as of the date of the decedent's death (or, if the executor has elected the valuation provided by section 811 (j) the value as of the date therein provided)

(c) A disclaimer or renunciation of a general power of appointment is not considered to be a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. Such rights refer to the incidents of the power and not to other interests of the decedent in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of its existence will be presumed to constitute an acceptance of the power.

(iv) *Successive powers.* (a) Section 811 (f) (4) provides that there shall be included in the gross estate of a decedent the value of any property with respect to which the decedent (1) by will, or (2) by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such property would be includible in the decedent's gross estate under section 811 (c) exercises a power of appointment (whether or not a general power of appointment) created after October 21, 1942, by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(b) For purposes of the application of section 811 (f) (4) the value of the property subject to the second power of appointment shall be considered to be such value unreduced by any precedent or subsequent interest which is not subject to such second power. Thus, if a decedent has a power to appoint by will $100,000 to a group of persons consisting of his children and grandchildren and exercises such power by making an outright appointment of $75,000 and by giving one appointee a power to appoint $25,000, no more than $25,000 will be includible in the decedent's gross estate under section 811 (f) (4) If, however, the decedent appoints the income from the entire fund to a beneficiary for life with power in the beneficiary to appoint the remainder by will, the entire $100,000 will be includible in the decedent's gross estate under section 811 (f) (4) if the exercise of the second power can validly postpone the vesting of any estate or interest in such property or can suspend the absolute ownership or power of alienation of such property for a period ascertainable without regard to the date of the creation of the first power.

(c) *Estates of decedents dying before October 21, 1942.* The regulations prescribed under this paragraph are applicable only with respect to estates of decedents who died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942. Property passing under a general power of appointment must be included in the gross estate of the person exercising the power (known as the donee, or appointor) if the power is exercised by will. It should also be so included if the power is exercised by deed or other instrument either (1) in contemplation of death, (2) with the intent that the transfer shall take effect in possession or enjoyment at or after the death of the donee of the power, (3) with the retention or reservation by the decedent of the use, possession, right to the income, or other enjoyment of the transferred property, or (4) with the retention or reservation by the decedent of the right to designate the person or persons who shall possess or enjoy the transferred property or the income thereof. (For description of such transfers and the taxability thereof with reference to when made and when the death occurred, see §§ 81.16 to 81.19, inclusive.)

PAR. 4. Section 81.47a (d) is amended as follows:

(A) By changing "811 (f) (3)" appearing at the end of the subparagraph (6) thereof to read "811 (f) (2)"; and

(B) By changing the parenthetical expression immediately at the end of the subparagraph (6) thereof to read as follows: "(See § 81.24 (b) (2).)"

PAR. 5. Section 81.17, as amended by Treasury Decision 5936, approved October 6, 1952, is further amended as follows:

(A) By amending the last sentence of paragraph (b) (2) to read as follows: "Notwithstanding the foregoing rules, an interest in property transferred by the decedent is not includible in the gross estate under this paragraph if possession or enjoyment of the property was obtainable by any beneficiary during the decedent's life through the exercise of a general power of appointment, as defined in section 811 (f) (3), which was in fact exercisable immediately prior to the decedent's death."

(B) By amending the second sentence of the first undesignated paragraph of paragraph (b) to read as follows: "For the purpose of subparagraph (2) of this paragraph, the expression 'some other event' includes the expiration of a term of years or the happening or failure to happen of a certain or uncertain event (including the possible exercise of a power which is not a taxable general power of appointment as defined in section 811 (f) (3))"

[F. R. Doc. 53-6844; Filed, Aug. 4, 1953; 8:55 a. m.]

[26 CFR Part 86]

[Regs. 108]

GIFT TAX UNDER CHAPTER 4 OF THE INTERNAL REVENUE CODE, AS AMENDED

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1029 and 3791 of the Internal Revenue Code (53 Stat. 157, 467; 26 U. S. C. 1029, 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

In order to conform Regulations 108 (26 CFR, Part 86) to sections 1 and 3 of Public Law 58 (82d Congress, 1st Session) approved June 28, 1951, relating to taxability for purposes of the gift tax of property subject to a power of appointment, such regulations are amended as follows:

PARAGRAPH 1. Section 452 of the Revenue Act of 1942 and all statutory provisions amending such section which precede § 86.1 are hereby deleted.

PAR. 2. There is inserted immediately preceding § 86.1 the following:

SEC. 452. POWERS OF APPOINTMENT [REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942].

* * * * *

(b) *Powers with respect to which amendments not applicable.*

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(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this act, which is exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termina-

tion of the present war, be considered under a legal disability to release a power to appoint.

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PUBLIC LAW 58 (82D CONGRESS), APPROVED JUNE 28, 1951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Powers of Appointment Act of 1951"

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SEC. 3. GIFT TAX—POWERS OF APPOINTMENT. (a) Section 1000 (c) of the Internal Revenue Code (relating to powers of appointment) is hereby amended to read as follows:

(c) *Powers of appointment*—(1) *Exercise of general power of appointment created on or before October 21, 1942.* An exercise of a general power of appointment created on or before October 21, 1942, shall be deemed a transfer of property by the individual possessing such power; but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof.

If before November 1, 1951, or within the time limited by paragraph (2) of section 452 (b) of the Revenue Act of 1942, as amended, in cases to which such paragraph is applicable, a general power of appointment created on or before October 21, 1942, shall have been partially released so that it is no longer a general power of appointment, the subsequent exercise of such power shall not be deemed to be the exercise of a general power of appointment.

(2) *Powers created after October 21, 1942.* The exercise of a general power of appointment created after October 21, 1942, or the release after May 31, 1951, of such a power, shall be deemed a transfer of property by the individual possessing such power. A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power.

(3) *Definition of general power of appointment.* For the purposes of this subsection the term "general power of appointment" means a power which is exercisable in favor of the individual possessing the power (hereafter in this paragraph referred to as the "possessor"), his estate, his creditors, or the creditors of his estate; except that—

(A) A power to consume, invade, or appropriate property for the benefit of the possessor which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the possessor shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the possessor only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the possessor only in conjunction with another person—

(i) If the power is not exercisable by the possessor except in conjunction with the creator of the power—such power shall not be deemed a general power of appointment;

(ii) If the power is not exercisable by the possessor except in conjunction with a person having a substantial interest, in the property subject to the power, which is adverse to exercise of the power in favor of the possessor—such power shall not be deemed a general power of appointment. For the purposes of this clause a person, who, after the death of the possessor, may be possessed of a power of appointment (with respect to the property subject to the possessor's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the possessor's power;

(iii) If (after the application of clauses (i) and (ii)) the power is a general power of appointment and is exercisable in favor of such other person—such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons (including the possessor) in favor of whom such power is exercisable.

For the purposes of clauses (ii) and (iii) a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(4) *Creation of another power in certain cases.* If a power of appointment created after October 21, 1942, is exercised by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in the property which was subject to the first power, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power, such exercise of the first power shall, to the extent of the property subject to the second power, be deemed a transfer of property by the individual possessing such power.

(5) *Lapse of power.* The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The rule of the preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property which could have been appointed by exercise of such lapsed powers exceeds in value the greater of the following amounts:

(A) $5,000, or

(B) 5 per centum of the aggregate value of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could be satisfied.

(b) *Date of creation of power.* For the purposes of this section a power of appointment created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

(c) *Effective date.* The amendments made by this section shall be effective as if made by section 452 (a) of the Revenue Act of 1942 on the date of its enactment (applicable with respect to gifts made in the calendar year 1943 and succeeding calendar years).

PAR. 3. Section 86.1, as amended by Treasury Decision 5833, approved March 8, 1951, is further amended as follows:

(A) By striking the word "The" at the beginning of the second sentence and inserting in lieu thereof "In general, the"; and

(B) By striking from such second sentence the portion beginning "releases before July 1, 1951" and ending "Revenue Act of 1942" and inserting in lieu thereof the following: "releases before June 1, 1951, of powers to appoint created after October 21, 1942, and releases before November 1, 1951, of powers to appoint created on or before October 21, 1942."

PAR. 4. Section 86.2 (b) as amended by Treasury Decision 5811, approved October 5, 1950, is further amended to read as follows:

(b) *Transfers under power of appointment*—(1) *In general.* Subject to the rules prescribed hereinafter, section 1000 (c) of the Internal Revenue Code treats as a taxable gift the exercise after December 31, 1942, of a general power of appointment created on or before October 21, 1942. Those provisions also treat as taxable gifts the exercise after December 31, 1942, of a general power of appointment, or the complete release after May 31, 1951, of a general power of appointment created after October 21, 1942, and the exercise of a power of appointment created after October 21, 1942, by the creation of another power of appointment. Specific rules applicable to certain powers created on or before October 21, 1942, are contained in subparagraph (4) of this paragraph, and subparagraph (5) of this paragraph contains the rules applicable to powers created after October 21, 1942. Specific rules relating to the exercise of powers created after October 21, 1942, by the creation of another power are contained in subparagraph (6) of this paragraph. Subparagraph (7) of this paragraph contains rules in respect of the exercise of a power after June 6, 1932, and before January 1, 1943.

(2) *Power of appointment.* (i) The term "power of appointment" includes all powers which are in substance and effect powers of appointment regardless of the nomenclature used in creating the power and regardless of local property law connotations. For example, if a transfer in trust provides that a beneficiary may appropriate or consume the principal of the trust, such power to consume or appropriate is a power of appointment. Similarly, a power given to a donee to alter, amend, revoke or terminate a trust is a power of appointment. If the community property laws of a state confer upon the wife a power of testamentary disposition over property in which she does not have a vested interest she is considered as having a power of appointment. A power in the possessor to remove or discharge a trustee and appoint himself may be a power of appointment. On the other hand, the mere power of management, investment, or custody of assets exercisable in a fiduciary capacity whereby the holder of the power has no power to enlarge or shift any of the beneficial interests therein is not a power of appointment. Further, the right in a beneficiary of an inter vivos trust to assent to a periodic accounting thereby relieving the trustee from further accountability is not a power of appointment if such right of assent does not consist of any power or right to enlarge the beneficial interests of any beneficiary therein.

(ii) For the purposes of this section, the term "power of appointment" does not apply to a power reserved directly or indirectly, by a donor upon a transfer, as distinguished from a donated power of appointment received from another person. See § 86.3 with respect to the taxability of reserved powers.

(iii) No provision of section 1000 (c) or of this section is to be construed as in any way limiting the application of any other section of the Internal Revenue Code or of the regulations in this part. For example, if under the terms of a trust A is given the income for life and the power to appoint the entire trust

property by deed during her lifetime to a class consisting of her children and the further power to appoint the entire trust property by will to anyone including her estate and A exercises the inter vivos power in favor of her children, she is considered to effectuate a transfer of her income interest which constitutes a taxable gift under section 1000 (a) This transfer also results in a relinquishment of her general power to appoint the property by will. In case the power was created after October 21, 1942, such a transfer, if occurring after May 31, 1951, constitutes a taxable gift under section 1000 (c).

(iv) Where a power of appointment exists as to only part of an entire group of assets or only in respect of a limited interest in property, this section shall apply only to such part or interest.

(v) A power of appointment is exercised where the property subject thereto is appointed to the taker in default of appointment, regardless of whether or not the appointed interest and the interest in default are identical, and regardless of whether or not the appointee renounces any right to take under the appointment.

(3) *General power of appointment.* (i) For the purposes of this section the term "general power of appointment," except as limited hereinafter, means any power of appointment exercisable in favor of the person possessing the power (referred to as the "possessor") his estate, his creditors, or the creditors of his estate. A power of appointment exercisable to meet the estate tax, and any other taxes, debts and charges which are enforceable against the possessor or his estate is includible within the meaning of a power of appointment exercisable in favor of the possessor, his creditors, his estate or the creditors of his estate. A power of appointment exercisable for the purpose of discharging a legal obligation of the possessor or for his pecuniary benefit is considered a power of appointment exercisable in favor of the possessor or his creditors.

(ii) A power to consume, invade, or appropriate property for the benefit of the possessor which is limited by an ascertainable standard relating to health, education, support or maintenance, shall not be deemed a power of appointment. Whether a power is limited by an ascertainable standard will be determined by applying the principles followed in ascertaining the extent to which, if any, a transfer to a trust for private and charitable purposes is allowable as a deduction under section 1004 (a) (2) A power to consume, invade, or appropriate property for comfort, pleasure, desire or happiness is not a power limited by an ascertainable standard.

(4) *General powers of appointment created on or before October 21, 1942.* (i) In the case of a general power of appointment created on or before October 21, 1942, section 1000 (c) applies only if the power is exercised. Section 1000 (c) (3) (B) provides that a power created on or before October 21, 1942, which is exercisable by the possessor only in conjunction with another person, shall not be deemed a general power of appointment. See subparagraph (3) of this paragraph for definition of a general power of appointment. The failure to exercise such a power or the complete release at any time of such a power is not deemed to be an exercise thereof. An exercise which concurrently carries with it a complete relinquishment of a power of appointment or an exercise followed by a complete relinquishment of the power of appointment is deemed an exercise and not a release. If a general power of appointment is partially released so that it is not thereafter a general power of appointment, a subsequent exercise of such partially released power shall not be deemed the exercise of a general power of appointment if such partial release occurs prior to whichever is the later of the following dates:

(*a*) November 1, 1951,

(*b*) If the decedent was under a legal disability to release such power on October 21, 1942, the day after the expiration of six months following the termination of such disability.

However, if the general power is partially released on or after November 1, 1951 (except where such partial release is effected within the period of six months following the termination of the legal disability referred to in the preceding sentence) and is thereafter exercised, such exercise will constitute the exercise of a general power of appointment.

(ii) The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that the type of general power of appointment possessed by the holder of the power actually was not generally releasable under the local law does not place the possessor under a legal disability within the meaning of this subdivision.

(iii) In general, it is assumed that all general powers of appointment are releasable unless the local law on the subject is to the contrary, and it is presumed that the method employed to release the power is effective, unless it is not in accordance with local law relating specifically to release or, in the absence of such local law, is not in accordance with local law governing similar transactions.

(iv) For purposes of section 1000 (c) a power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will died before July 1, 1949, without having republished such will by codicil or otherwise, after October 21, 1942.

(5) *General powers of appointment created after October 21, 1942*—(i) *In general.* Under section 1000 (c) (2) the exercise of a general power of appointment created after October 21, 1942, or the release of such a power after May 31, 1951, if such exercise or release is made without adequate and full consideration in money or money's worth, constitutes a gift by the possessor of the power. For definition of a general power of appointment, see subparagraph (3) of this paragraph. For treatment of joint powers, see subdivision (ii) of this subparagraph.

(ii) *Joint powers created after October 21, 1942.* The following rules shall apply with respect to a power of appointment created after October 21, 1942, which is exercisable only in conjunction with another person.

(*a*) Such a power shall not be considered as a general power of appointment if it is not exercisable by the possessor except with the consent or joinder of the creator of the power.

(*b*) Such a power shall not be considered as a general power of appointment if it is not exercisable by the possessor except with the consent or joinder of a person having a substantial interest in the property subject to the power which is adverse to the exercise of the power in favor of the possessor, his estate, his creditors, or the creditors of his estate. A taker in default of appointment has an interest which is adverse to such an exercise. A coholder of the power has no adverse interest merely because of his joint possession of the power nor merely because he is a permissible appointee under a power. However, a coholder of a power is considered as having an adverse interest where he may possess the power after the possessor's death and may exercise it at that time in favor of himself, his estate, his creditors, or the creditors of his estate. Thus; for example, if X, Y, and Z hold a power jointly to appoint among a group of persons which includes themselves and on the death of X the power will pass to Y and Z jointly, then Y and Z are considered to have interests adverse to the exercise of the power in favor of X.

(*c*) A power which is exercisable only in conjunction with another person and which after application of the rules set forth in (*a*) and (*b*) of this subdivision, constitutes a general power of appointment will be treated as though the holders of the power who are permissible appointees of the property were joint owners of property subject to the power. The possessor, under this rule, will be treated as possessed of a general power of appointment over an aliquot share of the property to be determined with reference to the number of joint holders, including the possessor, who (or whose estates of creditors) are permissible appointees. Thus, for example, if X, Y, and Z hold an unlimited power jointly to appoint among a group of persons, including themselves, but on the death of X the power does not pass to Y and Z jointly, then Y and Z are not considered to have interests adverse to the exercise of the power in favor of X. In this case, X is considered to possess a general power of appointment as to one-third of the property subject to the power.

(iii) *Releases and lapses of general powers of appointment.* (*a*) The general principles set forth in § 86.3 (a) for determining whether a donor of property has divested himself of the property to the extent necessary to effect a completed gift are applicable in determining whether a partial release of a power of appointment constitutes a taxable gift. Thus, if a general power of appointment is partially released so that

thereafter the donor may still appoint among a limited class of persons not including himself such partial release does not effect a completed gift, since the possessor of the power has retained the right to designate the ultimate beneficiaries of the property over which he holds the power and since it is only the termination of such control which completes a gift. If a general power of appointment created after October 21, 1942, is partially released prior to June 1, 1951, so that thereafter it is no longer a general power of appointment, the subsequent exercise or release thereof will not constitute the exercise or release of a general power of appointment for purposes of gift tax. If a general power created after October 21, 1942, is partially released after May 31, 1951, the subsequent exercise or release thereof will constitute the exercise or release of a general power of appointment for purposes of gift tax.

(b) In general, a release of a power of appointment, need not be formal or express in character. For example, the failure to exercise a power of appointment created after October 21, 1942, within a specified time, so that the power lapses, constitutes a release of the power. However, section 1000 (c) (5) provides that such a lapse shall be considered as a release so as to be subject to gift tax only to the extent that the property which could have been appointed by exercise of the power exceeds the greater of (1) $5,000, or (2) 5 percent of the aggregate value at the time of the lapse of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could be satisfied. Thus, for example, if an individual has a noncumulative right to withdraw $10,000 a year from the principal of a trust fund, the failure to exercise this right of withdrawal in a particular year will not constitute a gift if the fund at the end of such year equals or exceeds $200,000. However, if at the end of the particular year the fund should be worth only $100,000, the failure to exercise the power will be considered a gift to the extent of $5,000, the excess of $10,000 over 5 percent of a fund of $100,000. Where the failure to exercise the power, such as the right of withdrawal, occurs in more than a single year, the value of the taxable transfer will be determined separately for each year.

(c) A disclaimer or renunciation of a general power of appointment is not considered to be a release of the power. The disclaimer or renunciation must be unequivocal and effective under local law. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. Such rights refer to the incidents of the power and not to other interests of the possessor of the power in the property. If effective under local law, the power may be disclaimed or renounced without disclaiming or renouncing such other interests. There can be no disclaimer or renunciation of a power after its acceptance. In the absence of facts to the contrary, the failure to renounce or disclaim within a reasonable time after learning of its existence will be presumed to constitute an acceptance of the power.

(6) *Successive powers.* Section 1000 (c) (4) provides for the imposition of gift tax on the value of property with respect to which a power of appointment (whether or not a general power) created after October 21, 1942, is exercised by creating another power of appointment which under the applicable local law can be validly exercised so as to postpone the vesting of any estate or interest in the property which was subject to the first power, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power. For purposes of section 1000 (c) (4) the value of the property subject to the second power shall be considered to be such value unreduced by any precedent or subsequent interest which is not subject to such second power. Thus if a donor has a power to appoint $100,000 among a group consisting of his children or grandchildren and during his lifetime exercises such power by making an outright appointment of $75,000 and by giving one appointee a power to appoint $25,000, no more than $25,000 will be considered a gift under section 1000 (c) (4) If, however, the donor appoints the income from the entire fund to a beneficiary for life with power in the beneficiary to appoint the remainder, the entire $100,000 will be considered a gift under section 1000 (c) (4) if the exercise of the second power can validly postpone the vesting of any estate or interest in such property or can suspend the absolute ownership or power of alienation of such property for a period ascertainable without regard to the date of the creation of the first power.

(7) *Exercise of certain powers after June 6, 1932, and before January 1, 1943.* The exercise of a power of appointment after June 6, 1932, and before January 1, 1943, constitutes a gift by the individual possessing the power if the power is exercisable in favor of any person or persons in the discretion of such individual, or, however limited as to the persons or objects in whose favor the appointment may be made, if it is exercisable in favor of the individual possessing the power, his estate, his creditors, or the creditors of his estate.

PAR. 5. Section 86.3 (a) is amended by inserting in subparagraph (2) (iii) thereof immediately preceding "power of appointment" the word "general."

[F. R. Doc. 53-6845; Filed, Aug. 4, 1953; 8:56 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 927]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF DENIAL OF PETITIONS FOR SUSPENSION OF CERTAIN PROVISIONS

Pursuant to notice published in the FEDERAL REGISTER on July 15, 1953 (18 F. R. 4143), and notice otherwise given to interested persons prior thereto, a public rule making proceeding was conducted on July 20, 1953 in which interested persons were afforded an opportunity to present both oral and written data, views and arguments relative to the suspension of those provisions of the order as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR Part 927) hereinafter referred to as the "order," which provide for the use of the Boston weighted average cream price and of published prices for spray process nonfat dry milk solids in computing the minimum price established for Class III milk.

Provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., and hereinafter referred to as the "act") require suspension or termination of a provision of an order whenever it is found that the operation of such provision obstructs or does not tend to effecuate the declared policy of the act. Consideration of the data, views and arguments presented in this proceeding, together with other relevant information does not reveal an adequate basis for such a finding with respect to the provisions of the order involved in this proceeding. Accordingly, the petitions for suspension of such provisions are denied.

The order provisions sought to be suspended were adopted on the basis of evidence presented at public hearings at which full consideration was given to the question of pricing Class III milk. The data, views and arguments presented in this proceeding may indicate the desirability of a new hearing to review operation of the entire Class III pricing formula and to consider the need for its revision, but they do not justify findings and conclusions contrary to those made on evidence in the record of public hearings on which the present formula is based.

There has been no showing of circumstances or conditions constituting an emergency of a nature requiring immediate reduction in the minimum price established for Class III milk. The season of highest production is now past. The volume of pool milk is now declining seasonally. The best available estimates of production indicate that the seasonal decline this year will be greater than in 1952. Unless production in the months of November and December of this year exceeds the current estimates, the volume of Class III milk in those months will be less than a year ago by an amount greater than the total quantity of Class III milk which in November and December 1952 was utilized in the manufacture of butter and cheese. Under such circumstances the possibility that producers will be without a market or that handlers will experience extreme difficulty in the disposition of Class III milk appears relatively remote.

Action to reduce the price of Class III milk at this time could readily result in unnecessarily reducing the return to producers. The prospective prices for Class III milk were not shown to be too high in relation to prices paid to farmers at unregulated plants for milk used for manufacturing. It was argued that use

of the Boston weighted average cream price creates so much uncertainty as to what the Class III price will be in relation to alternative sources of supplies of butterfat for ice cream that outlets for Class III milk for use in ice cream probably could not be maintained after August 1, with the result that more Class III milk would be forced into butter thus reducing the return to producers. While such a result may be conceivable, it appears rather unlikely under present circumstances.

In 1952 the Class III price increased 34 cents from July to August, 22 cents of which increase was the result of using the Boston weighted average cream price in computation of the Class III price. Even though the total volume of Class III milk declined from 250 million pounds in July to 223 million pounds in August, the volume of milk used for cream outside the marketing area, plain condensed milk, cream cheese and ice cream increased slightly from July to August (143.1 million to 144.8 million) the volume used for concentrated whole milk products (other than cheddar cheese) declined only slightly (from 31.9 to 29.1 million pounds) the volume used for butter increased only 2 million pounds (from 12.4 to 14.2 million) and the volume of milk used for cheddar cheese declined nearly 20 million pounds (from 38.5 to 18.7) The smaller volume used for cheddar cheese accounted for substantially all of the reduction from July to August in the volume of Class III milk.

Compared with a year earlier the volume of Class III milk in August 1952 was up 3 percent, yet the volume of milk going into butter and cheese declined from 52.3 million pounds in August 1951 to 32.8 million in August 1952. In terms of percentages of total Class III milk, the decline was from 24.2 in August 1951 to 14.7 in August 1952.

Issued at Washington, D. C., this 30th day of July 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6807; Filed, Aug. 4, 1953; 8:48 a. m.]

[7 CFR Part 941]

[Docket No. AO 101-A15]

MILK IN THE CHICAGO, ILLINOIS, MARKETING AREA

PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT AND TO ORDER, AS AMENDED, REGULATING HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held at the Hotel LaSalle, Madison and LaSalle Streets, Chicago, Illinois, beginning 10:00 a. m., c. d. s. t., on August 11, 1953.

The hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Chicago, Illinois, marketing area and to the proposed amendments to the tentative marketing agreement as heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the said marketing area set forth herein below, or modifications thereof. Consideration will be given also to the question of whether such conditions require emergency action with respect to any or all amendments deemed necessary as the result of the hearing. The amendments proposed have not received the approval of the Secretary of Agriculture.

The following amendments have been proposed by the Associated Milk Dealers, Inc., Baldwin Cooperative Creamery et al., Central Dairy Sales Cooperative, Inc., and the Pure Milk Association:

Proposal No. 1. Amend § 941.52 (a) (3) and (b) (3) so that the application of such subparagraphs would be based on the supply and demand for milk in the Chicago area.

Proposal No. 2. Amend § 941.52 (a) (3) and (b) (3) by deleting the months of September and October for the year 1953.

Proposal No. 3. The following amendment has been proposed by the Dairy Branch, Production and Marketing Administration:

Make such other changes as may be required to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the said order as amended, may be procured from the Market Administrator, 73 West Monroe Street, Chicago 3, Illinois, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: July 30, 1953.

[SEAL] GEORGE A. DICE,
Acting Assistant Administrator

[F. R. Doc. 53-6846; Filed, Aug. 4, 1953; 8:57 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 14]

[Docket No. FDC-26 (a)]

CACAO PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

NOTICE OF HEARING

In the matter of amending the definitions and standards of identity for chocolate liquor, chocolate, baking chocolate, bitter chocolate, cooking chocolate, chocolate coating, bitter chocolate coating; breakfast cocoa, high-fat cocoa; sweet chocolate, sweet chocolate coating; milk chocolate, sweet milk chocolate, milk chocolate coating, sweet milk chocolate coating:

Upon the initiative of the Secretary of Health, Education, and Welfare and in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371, 67 Stat. 18) notice is hereby given that a public hearing will be held commencing at 10 o'clock in the morning of September 15, 1953, in room 5542, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington, D. C., for the purpose of receiving evidence upon proposals to amend the regulations fixing and establishing definitions and standards of identity for chocolate liquor (21 CFR 14.2), breakfast cocoa (21 CFR 14.3) sweet chocolate (21 CFR 14.6) and milk chocolate (21 CFR 14.7) by repealing the provisions of these regulations that make coumarin an optional ingredient of these foods.

At the hearing evidence will be restricted to testimony and exhibits relevant and material to such proposals. The hearing will be conducted in accordance with the rules of practice provided therefor. Mr. Leonard D. Hardy is hereby designated as presiding officer to conduct the hearing in place of the Secretary, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing. The presiding officer is required to certify the entire record of the proceeding to the Secretary for initial decision.

The proposed amendments for consideration at the hearing are subject to adoption, rejection, or modification by the Secretary of Health, Education, and Welfare, in whole or in part, as the evidence adduced at the hearing may require.

Dated: July 30, 1953.

[SEAL] OVETA CULP HOBBY,
Secretary.

[F. R. Doc. 53-6803; Filed, Aug. 4, 1953; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 41]

CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

SPECIAL CIVIL AIR REGULATION; FLIGHT TIME LIMITATIONS FOR PILOTS NOT REGULARLY ASSIGNED TO ONE TYPE OF CREW

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board an extension of the authority granted by Special Civil Air Regulation SR-386 as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rule, communications must be received by September 4, 1953. Copies of such communications will be available

after September 8, 1953, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Special Civil Air Regulation SR-386 which terminates September 19, 1953, provides authority whereby a pilot may serve in more than one type of flight crew without incurring any penalty in terms of maximum permissive flight duty. This authority has heretofore been provided for an experimental period with a view to the establishment of permanent rules for such crew assignments.

The Civil Aeronautics Administration has informed the Bureau that the regulation is a desirable one and not subject to abuse. It therefore recommends that the authority granted by SR-386 be continued and that it be incorporated in Part 41. Certain scheduled air carriers have also asked that the authority be incorporated in Part 41. However, the Bureau considers, since a proposed major revision of Part 41 is expected to be published shortly, that it would be more advisable to extend the authority granted by SR-386 and incorporate the changes in the proposed revision of Part 41 when published.

This regulation will not allow evasion of the stricter limitations applicable to smaller crew combinations, but will allow assignment of a pilot in any given month to another type of crew combination without additional flight time limitation if he flies not more than 20 hours in the type of crew to which the more restrictive flight time limitations apply and if such assignment is not interrupted more than once during such month.

Accordingly it is proposed to extend for one year the authority granted by Special Civil Air Regulation SR-386 to read as follows:

1. Contrary provisions of § 41.57 of the Civil Air Regulations notwithstanding, the following rules shall apply to the monthly and quarterly flight time limitations of pilots assigned in combinations of two-pilot crews, two-pilot and additional flight crew member crews, or three-pilot and additional flight crew member crews.

2. A pilot who is assigned to duty aloft for more than 20 hours in two-pilot crews in a given month, or whose assignment in such crews is interrupted more than once in the month by assignment to a crew consisting of two or more pilots and an additional flight crew member, shall be governed by the provisions of § 41.54.

3. Except for a pilot coming within the provisions of paragraph 2, a pilot who is assigned to duty aloft for more than 20 hours in two-pilot and additional flight crew member crews in a given month, or whose assignment in such crews is interrupted more than once in a month by assignment to a crew consisting of three pilots and an additional flight crew member, shall be governed by the provisions of § 41.55.

4. A pilot to whom the provisions of paragraphs 2 and 3 are not applicable, assigned to duty aloft for a total of 20 hours or less within a given month in two-pilot crews with or without additional flight crew members, shall be governed by the provisions of § 41.56.

5. A pilot assigned to each of two-pilot, two-pilot and additional flight crew member, and three-pilot and additional flight crew member crews in a given month, who is not governed by the provisions of paragraphs 2, 3, or 4, shall be governed by the provisions of § 41.55.

This regulation shall terminate one year from its effective date unless sooner superseded or rescinded by the Board.

This regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012; 49 U. S. C. 551–560)

Dated: July 30, 1953, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN, *Director*

[F. R. Doc. 53-6331; Filed, Aug. 4, 1953; 8:53 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[417.381]

CERTAIN CATALYSTS

TARIFF CLASSIFICATION

JULY 31, 1953.

The Bureau by its letter to the acting collector of customs at New York, New York, dated July 31, 1953, ruled that catalysts consisting of mixtures composed primarily of nickel oxide and earthy material, or iron and aluminum silicates and oxides, lead oxide, and zinc oxide are properly classifiable as articles or wares composed wholly or in chief value of mineral substances, not decorated, under paragraph 214, Tariff Act of 1930, following T. Ds. 33858 and 49202.

As this ruling will result in the assessment of duty at a higher rate than has heretofore been assessed under an established and uniform practice, it shall be applied to such or similar merchandise only when entered, or withdrawn from warehouse, for consumption after 90 days from the date of publication of an abstract of this decision in a forthcoming issue of the weekly Treasury Decisions.

[SEAL] D. B. STRUBINGER, *Acting Commissioner of Customs.*

[F. R. Doc. 53-6343; Filed, Aug. 4, 1953; 8:55 a. m.]

POST OFFICE DEPARTMENT

RESUMPTION OF C. O. D. SERVICE TO AND FROM GUAM

Effective August 1, 1953, collect-on-delivery service to and from Agana, Guam, will be resumed.

(R. S. 161, 396, 398, as amended, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369, 372)

[SEAL] ROSS RIZLEY, *Solicitor.*

[F. R. Doc. 53-6285; Filed, Aug. 4, 1953; 8:53 a. m.]

DEPARTMENT OF COMMERCE

Office of International Trade

[Case No. 154]

CHARLES GOLDBERG ET AL.

ORDER REVOKING LICENSES AND DENYING EXPORT PRIVILEGES

In the matter of Charles Goldberg, individually, and d/b/a Asiatic Export Co., 15 West 39th Street, New York, New York; Ernest L. Jacob, 86 Fort Washington Avenue, New York 32, New York; Respondents.

Compliance proceedings were instituted on December 12, 1951, by the transmission of a charging letter issued by the Investigation Staff of the Office of International Trade, United States Department of Commerce, to Charles Goldberg, individually, and doing business as Asiatic Export Co., and Ernest L. Jacob, the then export manager of said company. The charging letter was thereafter amended on October 28, 1952, by the addition of another charge against the named respondents. After receiving said charging letter, as amended, said respondents conferred by and through their respective counsel with officials of the Office of International Trade and thereafter submitted to the Office of International Trade, with the advice of and through such counsel, statements dated April 16, 1953, and July 21, 1953, respectively, admitting, for the purposes of this compliance proceeding only, the charges in said charging letter, as amended, waiving all rights to a hearing thereon, and consenting to the entry of an order, the terms of which are set forth below.

The charges to which the said respondents have entered their consents as aforesaid are that they violated the Export Control Act of 1949, as amended, and the regulations issued thereunder in substance as follows: In connection with the commodities of secondary tinplate and silicon steel sheets, and in pursuance of orders received from company agents in South America for the exportation of such commodities to South American customers respondents (a) misrepresented the end-use statements

on twelve applications filed with the Office of International Trade between January and June 1951, (b) sought to duplicate an application filed with the Office of International Trade on June 19, 1951, without disclosing such fact, by filing on July 6, 1951, a request to amend a license previously issued to them by changing the named consignee thereon to the consignee specified on the pending application, misrepresenting the intended end-use of the commodity involved in such amendment request, and submitting in connection therewith and as purported evidence of the availability of such commodity, evidence of availability which had been previously submitted to the Office of International Trade in support of a wholly unrelated application, and (c) for the purpose of giving the appearance of authenticity to the end-use representations made by respondents on the applications in (a) hereinabove in order to divert responsibility from themselves in an investigation by the Office of International Trade then under way, respondents sought, and obtained, in June and July 1951, letters from their agents in South America which in substance confirmed the validity of such end-use representations and submitted such letters to the Office of International Trade investigators as purported evidence of their good faith, although the statements in such letters were wholly false to the knowledge of respondents.

It appears from the record that the letters submitted to respondents by their agents, as aforesaid, were made without understanding the true nature of respondents' solicitations or the purpose for which such letters were to be used by respondents, and merely as an accommodation to respondents.

The record shows further that as a result of the investigation and the alertness of the Investigation Staff in uncovering the situation herein none of the above-described applications submitted by respondents were granted or exportations thereunder effected.

The charging letter, as amended, and the above-stated proposals for a consent order have been submitted to the Compliance Commissioner for review, and the Compliance Commissioner has also informally reviewed the evidence presented by the Investigation Staff in support of the charges as well as the extenuating circumstances claimed by the said respondents at conferences with counsel for the Office of International Trade and with counsel for the respective respondents, and he has found the charges to be supported by the evidence and has also found the terms and conditions of the proposed order as consented to by the said respondents to be fair and reasonable, and he has recommended that such order be issued.

In his report the Compliance Commissioner has made the finding that the violations herein are primarily attributable to the acts of respondent Ernest L. Jacob, the official then responsible for establishing the policies and maintaining the practices relating to the company's export operations. In addition to attempting to obscure the facts from the Office of International Trade by independently soliciting the aforesaid letters from the company's South American agents, respondent Jacob's supervision of the company's operations was found to be inadequate to the needs of the growing and rapidly expanding business. In this connection, the Compliance Commissioner has made the finding that respondent Jacob permitted the company to be undermanned and inadequately staffed with inexperienced personnel, failed to exercise proper supervision and control of the routine activities relating to export control regulations and requirements, and allowed the company's files and filing system to be maintained in such condition that information of the availability of steel sheets and other commodities for export, as well as other material information and data essential for licensing purposes, were not accessible for disclosure when the necessity arose to inform the Office of International Trade of the facts.

While the Compliance Commissioner has properly found and his report shows that the company and its owner, Charles Goldberg, as well as the responsible official, must be held responsible for these actions, he has pointed out certain extenuating factors in this case, in addition to his conclusion that, except for the exculpatory letters obtained and used by Jacob, the violations here were not wilful or intentional.

When Charles Goldberg, the head of the company was informed of this case, he took steps to relieve the respondent employee of his position in charge of exports, and re-assigned him to other posts removed from responsibility for the conduct of its export functions as they relate to Office of International Trade regulations and requirements; respondent Jacob later left the employ of Asiatic Export Co. of his own volition. The company has also reorganized its export operations, put it in charge of a responsible, experienced official, revamped its filing system, and taken other measures to assure compliance with the export control law and regulations in the future.

The Compliance Commissioner has also pointed out that in making his recommendations he has taken into consideration the absence of any record indicating prior export control violations by respondents, the extensive export business of Asiatic Export Co., and the requirement that the company surrender to the Office of International Trade for revocation a number of validated export licenses issued to and held by the company, and a related company, representing a large dollar volume of current business commitments.

The findings and recommendations of the Compliance Commissioner have been carefully considered, together with the charging letter, as amended, the evidentiary material, and the proposals for a consent order. It appears therefrom that the Compliance Commissioner's findings are in accordance with the evidence and that such recommendations are reasonable and should be adopted.

Now, therefore, it is ordered as follows:

(1) All outstanding validated export licenses held by or issued in the names of respondents Asiatic Export Co., Charles Goldberg, or Ernest L. Jacob, or any of them, or any person, firm, corporation, or other business organization with which they, or any of them, are now related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith, are revoked and shall be returned forthwith to the Office of International Trade for cancellation.

(2) The above-named respondents, and each of them, are hereby denied and declared ineligible to exercise the privileges of participating directly or indirectly in any manner or capacity in the exportation of any commodity from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit respondents' participation (a) as a party or as a representative of a party to any validated export license application, (b) in the obtaining or using of any validated or general export license or other export control document, (c) in the receiving in any foreign country of any exportation from the United States, and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

(3) Such denial of export privileges shall extend not only to the named respondents, and to Intra-American Steel Company (another concern owned by respondent Charles Goldberg), but also to any person, firm, corporation, or other business organization with which they, or any of them, may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith.

(4) This order shall extend for a period of twelve (12) months from the date of issuance: *Provided, however,* With respect to respondent Ernest L. Jacob that during the last three (3) months of such period, and with respect to respondent Charles Goldberg, individually and doing business as Asiatic Export Co., and to the aforerelated persons and companies that during the last eleven (11) months of such period, the export privileges which are denied by the terms of this order shall be restored to them without further order of the Office of International Trade, but no validated export licenses revoked under the order shall thereby be restored. In the event, however, that any of the named respondents or the aforerelated persons and companies shall knowingly violate the terms of the denial order or any of the laws or regulations related to export control during the entire period of such order, the Office of International Trade may summarily and without notice to the person or company responsible for such violation, at such time as it shall determine that such violation occurred, issue a supplemental order which shall deny to such person or company all export privileges for the said period of the order which has been held in abeyance

with respect to him or it, and shall revoke all validated licenses then outstanding and as to which said person or company may be a party, without thereby limiting the Office of International Trade from taking such other and further action based on such violation as it shall deem warranted.

(5) No person, firm, corporation, or other business organization shall knowingly apply for or obtain any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation from the United States under validated and general export licenses, or finance, service, transport, forward or receive any commodities thereunder, to or for the named respondents, or any of them, or Intra-American Steel Company, or any person, firm, corporation, or other business organization covered by paragraph (3) above, without prior disclosure of such facts to, and specific authorization from, the Office of International Trade.

Dated: July 31, 1953.

JOHN C. BORTON,
Assistant Director for Export Supply.

[F. R. Doc. 53-6870; Filed, Aug. 4, 1953; 8:57 a. m.]

FEDERAL CIVIL DEFENSE ADMINISTRATION

SECRETARY OF AGRICULTURE OR HIS DESIGNEE

DELEGATION OF CERTIFYING AUTHORITY FOR COUNTIES OR PARISHES IN AREAS DETERMINED BY THE PRESIDENT TO BE MAJOR DISASTER AREAS UNDER PUBLIC LAW 875, WHEN OPERATING UNDER PUBLIC LAW 115

1. Pursuant to the authority vested in me by Public Law 875, 81st Congress, 2d Session, as amended, and section 5 of Executive Order 10427 dated January 16, 1953, there is hereby delegated to the Secretary of Agriculture, with his consent, the authority of prescribing, delineating and certifying counties, parishes or other political subdivisions or portions thereof contained in such major disaster areas as determined by the President under Public Law 875, 81st Congress, 2d Session; for the purpose of performing the functions prescribed in sections (b) and (d) of Public Law 115, 83d Congress, 1st Session; which amends section 2 of Public Law 38, 81st Congress, 1st Session (63 Stat. 43)

2. The authority herein delegated may be redelegated to any officer or employee of the Department of Agriculture.

3. This delegation of authority becomes effective July 31, 1953.

VAL PETERSON,
Administrator Federal Civil Defense Administration.

Consented to:

E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-6852; Filed, Aug. 4, 1953; 9:11 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10457, 10458]

WKRG-TV, INC., AND MOBILE TELEVISION CORP.

MEMORANDUM OPINION AND ORDER DELETING ISSUE

In re application of WKRG-TV, Inc., Mobile, Alabama; Docket No. 10457, File No. BPCT-690; The Mobile Television Corporation, Mobile, Alabama, Docket No. 10458, File No. BPCT-990; for television construction permits.

Preliminary statement. 1. We have before us for consideration several questions relating to the enlargement or amendment of the hearing issues in the above-entitled proceeding. A list of the pleadings relating to these questions is set forth in the footnote below.[1] Before entering into a discussion of these matters, a brief background statement is necessary.

Background. 2. The instant proceeding is a comparative one involving the mutually exclusive application of Mobile Television Corporation (Mobile) and WKRG-TV, Inc. (WKRG), for construction permits for new commercial television broadcast stations on Channel 5 in Mobile, Alabama. WKRG-TV, Inc., is the successor, insofar as this proceeding is concerned, to the original applicant, a partnership doing business as Giddens and Rester. The partnership has an interest in the corporation and remains as licensee of broadcast Stations WKRG and WKRG-FM, as well as of a remote pick-up station. An application is on file to assign these three stations, all located in Mobile, to WKRG-TV, Inc., contingent upon a grant of the corporation's TV application. No action has been taken on this assignment application. The competing TV applications were designated for comparative hearing on April 21, 1953; a pre-hearing conference was held on May 25, 1953.

Legal qualifications of Mobile. 3. The first question to be considered is that of Mobile's legal qualifications. In the order of designation Mobile was not found to be legally qualified and a hearing issue to determine whether this applicant "is authorized to construct, own and operate a television broadcast station in Mobile, Alabama" was specified. Mobile requests that this issue be stricken and that by amendment to the order of designation it be found legally qualified. To support its request, Mobile refers to an amendment to its application containing a certificate of the Secretary of State of Alabama stating that on January 9, 1953, Mobile, a Louisiana corporation, qualified in the State of Alabama. No opposition to the motion has been filed. It appears that this applicant is now legally qualified, and the order of designation should be modified as requested.

Legal qualifications of WKRG. 4. The third matter to be considered is Mobile's request that the Commission's finding, contained in the order of designation, that WKRG-TV is legally qualified be stricken and that a hearing issue be added "To determine whether the granting of the application of WKRG-TV, Inc., to construct, own, and operate a television broadcast station in Mobile, Alabama, and the application of * * * Giddens and Rester Radio, to assign its license to WKRG-TV, Inc., * * * would result in a violation of the Commission's Rules and Regulations or policies, or both, with respect to multiple ownership of "broadcast stations." The substance of Mobile's contention is that if the WKRG-TV application is granted and if, thereafter, the applications for assignment of licenses for WKRG AM and FM is granted; there would result a violation of the multiple ownership rule for broadcast stations because there would be common ownership or control of WKRG AM and FM with WABB and WABB-FM, all located in Mobile. The basis of the common ownership or control claim is that approximately 22 percent of the stock of WKRG-TV, Inc., is owned by members and associates of a Mobile law firm and that other members and associates, or relatives thereof, own approximately 2 percent of the shares of stock of The Mobile Press Register, Inc., which is the licensee of WABB and WABB-FM. It appears from the record that none of those persons who hold stock in The Mobile Press Register hold any position as officer, director or employee in that company.

5. WKRG-TV and the Commission's Broadcast Bureau oppose the request. The former, in addition to setting forth the facts concerning the stock ownership, argues that there would be no violation of the duopoly rule where the ownership in the Press Register consists of only a 2 percent passive stock interest not represented in management, operation or control. The Broadcast Bureau contends that the allegations of common control are not substantiated and that "the ownership of stock by business associates, of and by itself [does not] raise any presumption of common ownership."

6. After careful examination of the pleadings and after a re-examination of the facts relating to common ownership, we are of the opinion that there is no need for the addition of the issue requested by Mobile or for deletion of the finding that WKRG-TV, Inc., is legally qualified. Whether or not we were persuaded to add the hearing issue requested, we would, under our established policy, be constrained to deny the request

[1] Mobile Motion to Strike Issue and Amend Order, filed May 8, 1953; WKRG-TV, Inc., Response to said Motion, filed May 14, 1953; Mobile Motion to Amend Order, Enlarge Issues, etc., filed May 8, 1953; WKRG-TV, Inc., Opposition to said Motion, filed May 18, 1953; Mobile Reply to said Opposition, filed May 20, 1953; Mobile Motion to Amend Order and Enlarge Issues, filed May 11, 1953; Mobile Correction to said Motion, filed May 13, 1953; WKRG-TV, Inc., Opposition to said Motion, filed May 22, 1953; Broadcast Bureau Comments to Mobile Motions to Amend and Enlarge, filed May 27, 1953; WKRG-TV, Inc., further Opposition, filed June 5, 1953; Mobile Reply to further Opposition, filed June 9, 1953; Mobile Correction to Reply to further Opposition, filed June 12, 1953; and WKRG-TV, Inc., Answer to Reply to further Opposition, filed June 11, 1953.

for deletion of the finding that WKRG-TV Inc., is legally qualified. Multiple ownership is not an element of legal qualification; legal qualification refers to the specified statutory requirements precedent to the issuance of a license. See WGAL, Inc., 9 Pike and Fischer RR 110.

7. However, the issue requested by Mobile could be added were there any basis for so doing. We can find none in the record and pleadings before us. It is not contended by Mobile that the same persons own stock in both WKRG-TV Inc., and The Mobile Press Register. The claim of common ownership is based upon the premise that because the stockholders in the two companies are associated in the practice of law or are related to each other through family ties, they would act in concert, in privity, with the result that there would exist that degree of common ownership or control precluded by our rules and policies. We cannot agree that these associations and relationships, particularly in view of the small amount of stock ownership and the absence of managerial control in The Mobile Press Register, create a presumption of common ownership and control which would justify the addition of an issue on this point.[2] In the absence of any facts beyond those alleged by Mobile, we can find no sound reason for burdening the hearing record in this proceeding with evidence upon an issue the need for which is not apparent. The request must be denied.

8. There is one additional question in connection with the foregoing which remains to be considered. The Broadcast Bureau, although opposing inclusion of the common ownership issue, contends that inquiry should be made into the details with respect to the elimination of the common ownership which did but no longer does exist between WKRG-TV and The Mobile Press Register. The common ownership which did in fact exist at one time was eliminated by the transfer of stock upon which such common ownership rested, and it is the Broadcast Bureau's position that the facts with respect to this disposition are pertinent to this case. The Bureau states that "evidence adduced pursuant to such an inquiry may be such as to disqualify the applicant without respect to his application's comparative merits." No facts in support of the contention are alleged nor are any reasons given why this inquiry is necessary or appropriate. Our review of the application suggests no reason for the inquiry. Accordingly, the request must be denied.

9. We desire to make it clear that our rulings on the requests relating to the question of common ownership are not to be construed so as to preclude the introduction for comparative purposes of proper evidence at the hearing directed to concentration of control of the mass media of communication and other similar factors.[2] Neither are our rulings to be construed to preclude the filing, at some later date, of petitions to amend the issues should facts appear which would indicate the existence of that degree of common ownership and control which would be in conflict with our rules and policies.

10. On July 23, 1953, Mobile filed a petition to withdraw its aforementioned Motion to Amend Order, Enlarge Issues, etc. (relating to financial qualifications of WKRG) filed on May 8, 1953. Accordingly, said motion may be dismissed without further consideration here.

Conclusion. 11. In view of all of the foregoing, *It is ordered,* This 28th day of July 1953, that the motion of Mobile Television Corporation for amendment of the order of designation to delete the finding that WKRG-TV Inc., is legally qualified and for enlargement of the hearing issues to make inquiry into a possible violation of our rules and policies covering multiple ownership is denied, that the request of the Chief, Broadcast Bureau, for enlargement of the hearing issues to permit inquiry into the details concerning elimination of common ownership between WKRG-TV, Inc., and The Mobile Press Register is denied; and that the motion of Mobile Television Corporation that the order of designation be amended to find it legally qualified and to delete Issue No. 1 concerning its authority to construct, own and operate a television broadcast station in Mobile, Alabama, is granted; and

It is further ordered, That the petition of Mobile Television Corporation for withdrawal of its "Motion to Amend Order and Motion to Enlarge the Issues or for Declaratory Ruling" filed May 8, 1953, is granted, and said pleading of May 8, 1953, is dismissed.

Released: July 28, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6824; Filed, Aug. 4, 1953; 8:52 a. m.]

[Docket No. 10569]

SYRACUSE BROADCASTING CORP.

ORDER SCHEDULING HEARING

In re application of Syracuse Broadcasting Corporation (WNDR; WNDR-FM) Syracuse, New York, Docket No. 10569, File No. BR-1501 BRH-91, for renewal of license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the above-entitled application which was designated for hearing on June 25, 1953; and

It appearing, that no date was previously scheduled by the Commission in the above-entitled proceeding;

It is ordered, That the hearing in the above-entitled proceeding be held at 10:00 a. m., September 9, 1953, in Syracuse, New York.

Released: July 30, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6820; Filed, Aug. 4, 1953; 8:52 a. m.]

[Docket Nos. 10575, 10576]

SOUTHERN BROADCASTING CO., INC., AND SOUTHERN ENTERPRISES

ORDER CONTINUING HEARING

In re applications of Southern Broadcasting Co., Inc., Montgomery Alabama, Docket No. 10575, File No. BPCT-683; Woodley C. Campbell, et al. tr/as Southern Enterprises, Montgomery, Alabama, Docket No. 10576, File No. BPCT-1051, for construction permits for new television stations.

The Commission has before it a petition by Southern Broadcasting Co., Inc., to continue the hearing from July 31, 1953, for a period of 60 days.

The Broadcast Bureau has indicated that it does not object to a continuance but does object to the period. The other applicant, Southern Enterprises, has informed the Commission that it plans to petition for the dismissal of its application.

Upon a review of the grounds submitted by Southern Broadcasting Co., Inc., it appears that a continuance is in order. However, the period requested is excessive.

In view of the foregoing, *It is ordered,* This 29th day of July 1953, that the proceeding heretofore set to be heard on July 31, 1953, is continued until 10:00 a. m., September 1, 1953.

Released: July 30, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6821; Filed, Aug. 4, 1953; 8:52 a. m.]

[Docket Nos. 10598, 10599]

SOUTHWESTERN BELL TELEPHONE CO.

ORDER ASSIGNING MATTER FOR HEARING

In the matter of the application of Southwestern Bell Telephone Company, Docket No. 10598, File No. P-C-3279; for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and property of the Southwestern States Telephone Company.

In the matter of the application of Southwestern Bell Telephone Company, Docket No. 10599, File No. P-C-3280; for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and property of A. S. Teeter, d/b as Crowley Telephone Company.

[2] At the Prehearing Conference the parties stipulated to the effect that such evidence was admissible under the present hearing issues.

The Commission having under consideration applications filed by the Southwestern Bell Telephone Company for certificates under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by Southwestern Bell Telephone Company of certain telephone plant and property of the Southwestern States Telephone Company located in and around Pflugerville, Euless, and Caps, Texas, and of certain telephone plant and property of A. S. Teeter, d/b as the Crowley Telephone Company, located in and around Crowley, Texas, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 28th day of July 1953, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above applications are assigned for public hearing in a consolidated proceeding for the purpose of determining whether each of the proposed acquisitions will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That hearing upon said applications be held at the offices of the Commission in Washington, D. C., beginning at 10:00 a. m., on the 20th day of August 1953, and that a copy of this order shall be served upon the Governor of the State of Texas, the Mayor of Pflugerville, Euless, Caps, and Crowley, Texas, Southwestern Bell Telephone Company, the Southwestern States Telephone Company, A. S. Teeter, d/b as the Crowley Telephone Company, and the Postmasters of Pflugerville, Euless, Caps, and Crowley, Texas.

It is further ordered, That within five days after receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in the communities of Pflugerville, Euless, Caps, and Crowley, Texas, and in the Counties of Travis, Tarrant, and Taylor, Texas, and shall furnish proof of such publication at the hearing herein.

Released: July 28, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary,

[F. R. Doc. 53-6822; Filed, Aug. 4, 1953; 8:52 a. m.]

[U. S. Change List No. 516]

U. S. STANDARD BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES AND CORRECTIONS IN ASSIGNMENTS

JULY 22, 1953.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

This notification consists of a list of changes, proposed changes, and corrections in Assignments of United States Standard Broadcast Stations modifying the Appendix containing assignments of United States Standard Broadcast Stations, Mimeograph #43126, attached to the "Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941" as amended.

UNITED STATES

Call letters	Location	Power (kw.)	Antenna	Schedule	Class	Date of FCC action	Proposed date of change or commencement of operation
			570 kilocycles				
WHYN	Springfield, Mass. (change in main studio from Holyoke, Mass.; no change in transmitter location).	1	DA-1	U	III-B		Immediately.
			610 kilocycles				
WSLS	Roanoke, Va.	1	DA-2	U	III-A		Now in operation with change in daytime DA.
WHXY	Bogalusa, La. (assignment of call letters).		620 kilocycles				
			620 kilocycles				
WWJ	Detroit, Mich. (changes in DA-N).	5	DA-N	U	III-A	July 22, 1953	July 22, 1954.
			620 kilocycles				
WHAK	Rogers City, Mich.	5	ND	D	III		Now in operation with increased power.
			670 kilocycles				
WERH	Hamilton, Ala.	5	ND	D	III		Do.
			1070 kilocycles				
WHOL	Allentown, Pa. (delete assignment).						
WEEX	Easton, Pa.	0.25	ND	U	IV	July 22, 1953	July 22, 1954.
			1249 kilocycles				
KEAN	Brownwood, Tex. (assignment of call letters).						
			1320 kilocycles				
WMEN	Tallahassee, Fla. (change in call letters from WFLR).						
WEAW	Evanston, Ill. (assignment of call letters).						

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6823; Filed, Aug. 4, 1953; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2138]

KANSAS-COLORADO UTILITIES, INC.

ORDER DENYING REQUEST FOR SHORTENED PROCEDURE AND FIXING DATE OF HEARING

On March 29, 1953, Kansas-Colorado Utilities, Inc. (Applicant) a Kansas corporation having its principal place of business at Lamar, Colorado, filed an application for an order pursuant to section 7 (a) of the Natural Gas Act, directing Colorado Interstate Gas Company (Colorado Interstate) to establish physical connection of its transportation facilities with the facilities of Applicant, and to sell to Applicant up to 5,000 Mcf per day of natural gas during the months of May, June, July, August, September and October of each year, beginning May 1, 1953. Applicant also requests that the Commission fix 12.5¢ per Mcf as the price for such gas.

On April 22, Colorado Interstate filed its answer to said application in which it states that it does not oppose the application filed herein, but that it does deny that the Commission may fix the rate at which Colorado Interstate would sell gas to Applicant.

Due notice of the filing of the application has been given, including publication in the FEDERAL REGISTER on April 18, 1953 (18 F. R. 2257)

Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure for noncontested proceedings.

The Commission finds:

(1) Good cause has not been shown for granting the request of Applicant that its application be heard under the shortened procedure as provided by the Commission's rules of practice and procedure.

(2) It is necessary and appropriate for carrying out the provisions of the Natural Gas Act that a hearing be held as hereinafter provided and ordered.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7, 15 and 16 of the Natural Gas Act, and the Commission's general rules and regulations, including rules of practice and procedure (18 CFR, Chapter I), a public hearing be held commencing August 24, 1953, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues pre-

sented by the application and the answer thereto filed in this proceeding.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f))

Adopted: July 29, 1953.

Issued: July 30, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6795; Filed, Aug. 4, 1953; 8:46 a. m.]

[Docket No. G-2214]

CITIES SERVICE GAS CO.

NOTICE OF APPLICATION

JULY 30, 1953.

Take notice that Cities Service Gas Company (Applicant) a Delaware corporation having its principal place of business in Oklahoma City Oklahoma, filed on July 16, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of facilities subject to the jurisdiction of the Commission and described as follows:

Construct approximately 2.1 miles of 3-inch gas pipe line beginning at a point of connection with an existing 10-inch gas pipe line in the Northwest Quarter (NW ¼) of Section 11, Township 34 South, Range 25 East, Cherokee County, Kansas, and extending east and southeast to a point in the Northwest Quarter (NW ¼) of Section 2, Township 27 North, Range 34 West, Jasper County, Missouri, and install meter station and appurtenant equipment at point of connection in Jasper County, Missouri.

Applicant proposes to construct and operate the described facilities for the purpose of providing natural gas service to Missouri Farmers Association, Inc. for use in a fertilizer plant to be constructed in the vicinity of Empire, Kansas, 75 percent of the said natural gas to be used for fuel purposes and the remaining 25 percent to be used in connection with the processing of raw materials into fertilizer.

The application recites that for 1953–54, 1954–55, 1955–56, estimated annual volumes of 182,077 Mcf will be required; and that no natural gas will be delivered on peak days.

The estimated overall capital cost of the facilities is $14,200 which will be paid for from a cash advance by Missouri Farmers Association, Inc. said sum, however, to be returned to Missouri Farmers Association, Inc. at the rate of 5 cents per Mcf of gas delivered until the total amount has been refunded.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 19th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6792; Filed, Aug. 4, 1953; 8:45 a. m.]

[Project No. 2009]

VIRGINIA ELECTRIC AND POWER CO.

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE

JULY 30, 1953.

Public notice is hereby given that Virginia Electric and Power Company of Richmond, Virginia, has made application for amendment of its license for Project No. 2009, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791–825r), to be located on Roanoke River in Halifax and Northampton Counties, North Carolina, to install 4 turbines each rated at 35,000 horsepower and discharging into the project tailrace instead of 3 turbines each rated at 37,000 horsepower and discharging into the project tailrace and 1 turbine rated at 14,000 horsepower and discharging into the supply canal of the existing Roanoke Rapids plant; to install 4 generators each rated at 25,000 kilowatts instead of 3 generators each rated at 27,000 kilowatts and 1 generator rated at 10,000 kilowatts; to install Taintor type spillway gates and provide a drop gate to discharge low flows when the turbines are not operating, instead of fixed roller type gates; and to install individual remote control motor operated hoists on some of the gates and a traveling hoist for operating the remaining crest gates instead of a gantry crane on the dam for lifting the crest gates.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 14th day of September 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6793; Filed, Aug. 4, 1953; 8:46 a. m.]

[Project No. 2131]

WISCONSIN MICHIGAN POWER CO. AND KINGSFORD CHEMICAL CO.

NOTICE OF APPLICATION FOR LICENSE

JULY 30, 1953.

Public notice is hereby given that Wisconsin Michigan Power Company of Milwaukee, Wisconsin, and Kingsford Chemical Co., of Iron Mountain, Michigan, have filed application under the Federal Power Act (16 U. S. C. 791a–825r) for license for constructed water-power Project No. 2131 located on the Menominee River in Florence County, Wisconsin, and Dickenson County, Michigan, partially in the City of Kingsford, and consisting of a dam about 845 feet long composed of a powerhouse intake section, a gated spillway section, and two earth sections; a detached earth dike about 313 feet long on the Michigan side of the river; a powerhouse containing three 3,200-horsepower turbines, each connected to a 2,400-kilowatt generator, and appurtenant facilities; and a proposed double circuit transmission line about three miles long, the hydraulic head developed being 30 feet.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 11th day of September 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6794; Filed, Aug. 4, 1953; 8:46 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

ORGANIZATION DESCRIPTION, INCLUDING DELEGATIONS OF FINAL AUTHORITY; PUBLIC HOUSING COMMISSIONER

AMENDMENT OF DELEGATIONS OF AUTHORITY TO EXERCISE CERTAIN RESPONSIBILITIES VESTED IN THE HOUSING AND HOME FINANCE ADMINISTRATOR UNDER VARIOUS STATUTES

The delegations of final authority to the Public Housing Commissioner, published under section IV (e) (1) (15 F R. 369, 372) January 21, 1950, are hereby amended to read as follows:

1. The Public Housing Commissioner is hereby authorized, subject to the supervision of the Housing and Home Finance Administrator:

a. To execute the powers and functions vested in the Administrator under the provisions of Public Laws 781 and 849 (76th Cong.) as amended, and Public Laws 9, 73, and 353 (77th Cong.), as amended, and of Title II of Public Law 266 (81st Cong.) including the power to make findings and determinations thereunder, except the power to make transfers to the War and Navy Departments under section 4 of Public Law 849, as amended, and to make findings, under section 313 thereof, that housing of a temporary nature is still needed; and powers and functions vested in the Administrator as a result of Reorganization Plan No. 17 of 1950 (64 Stat. 1269) over and relative to those Public Works Projects undertaken under Title II of Public Law 849, as amended, and equipment therefor which are listed in the Appendix to this delegation or as said Appendix may from time to time be amended;

b. With respect to powers and functions delegated in subparagraph "a" and powers and functions otherwise vested in the Commissioner by or pursuant to law, to execute the powers and functions vested in the Administrator pursuant to

the provisions of the First War Powers Act, 1941, the act of August 7, 1946 (Pub. Law 657, 79th Cong.) and the Contract Settlement Act of 1944, as such acts have been or may be amended, including the power to make findings, determinations, and settlements thereunder; and

c. To redelegate any of the authority herein delegated to and vested in the Commissioner to such officers and employees of the Public Housing Administration as he may select.

2. Any instrument or document executed by the Public Housing Commissioner, or by any officer or employee to whom the authority has been redelegated, purporting to relinquish or transfer any rights, title, or interest in or to real or personal property under the authority of this delegation shall be conclusive evidence of the authority of such Commissioner, officer or employee to act for the Housing and Home Finance Administrator in executing such instrument or document.

3. There are hereby transferred to the Public Housing Administration, to be used and employed in connection with the powers and functions herein delegated over and relative to the Public Works Projects and equipment listed in the Appendix hereto (as it may from time to time be amended) the records now being used or held by the Office of the Administrator, Housing and Home Finance Agency, in connection with such Projects and equipment.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1268, 1283–85 (1948), as amended, 12 U. S. C., 1946 ed. Sup. V 1701c; 54 Stat. 1125, 1127 (1940), as amended, 42 U. S. C., 1946 ed. 1544, 1545; 63 Stat. 440 (1949), 12 U. S. C., 1946 ed. Sup. V 1701d–1; 54 Stat. 1125 (1940), as amended, 42 U. S. C., 1946 ed, 1521, 1531 et seq., 63 Stat. 377, 380 (1949), as amended, 5 U. S. C., 1946 ed. Sup. V 630 b; Reorg. Plan No. 17 of 1950, 64 Stat. 1269 (1950))

Effective as of the 5th day of August 1953.

[SEAL] ALBERT M. COLE,
Housing and Home Finance Administrator.

APPENDIX

PUBLIC WORKS PROJECTS UNDERTAKEN UNDER TITLE II OF PUBLIC LAW 849 (76TH CONG.), AS AMENDED (SO-CALLED LANHAM ACT), AND EQUIPMENT THEREFOR, RESPONSIBILITY FOR WHICH IS TRANSFERRED TO THE PUBLIC HOUSING COMMISSIONER

Region II

(1) Conn. 6–216–F, Windsor Locks, Conn. (Sewer main connecting PHA Projects No. Conn. 6151, 6152, and 6081 to Windsor Locks sewer system.)

(2) Maine 17–146–F, South Portland, Maine. (Combined sewer to serve PHA Project No. Maine 17033.)

(3) N. Y. 30–210–F, Mineville, N. Y. (Water and sewer facilities to serve PHA Project No. N. Y. 30102.)

(4) Del. 7–108–F, Wilmington, Del. (Water facilities to serve PHA Project No. Del. 7035.)

(5) Md. 18–153–F, Cabin John, Md. (Sewer facilities to serve PHA Projects No. Md. 18131 and 18132.)

(6) Md. 18–205–F, Indian Head, Md. (Sewer facilities to serve PHA Project No. Md. 18272.)

(7) Md. 18–206–F, Indian Head, Md. (Water line, electric power line, and access road to serve PHA Project No. Md. 18272.)

(8) N. C. 31–229–F, Wilmington, N. C. (Sewer facilities to serve PHA Project No. N. C. 31027.)

Region IV

(9) Ohio 33–227–F, Windham, Ohio. (Sewer and water facilities to serve PHA Project No. Ohio 33049.)

Region V

(10) Kans. 14–263–F, Sunflower Village, Kans. (Recreation facilities to serve PHA Project "Sunflower Village.")

(11) Wyo. 48–113–F Cheyenne, Wyo. (Fire station to serve PHA Project "Frontier Park Villa.")

Region VI

(12) La. 16–266–F, New Orleans, La. (Sewer facilities to serve PHA Project No. La. 16103.)

Region VII

(13) Calif. 4–468–F, Vallejo, Calif. (One 500 gpm triple combination fire truck mounted on Ford chassis, including accessories. Serves PHA Project No. Cal. 4211.)

(14) Calif. 4–628–F, Unit 1, Long Beach, Calif. (Nursery school to serve PHA Project No. Cal. 4790.)

(15) Calif. 4–543–F, Alameda, Calif. (School site only. Site acquired from PHA but not being used. Located at 1061 Stalker Way.)

(16) Calif. 4–918–F, Vallejo, Calif. (Fire station located at 330 Rodgers Street near Sears Point Road in PHA Federal Terrace Projects No. Cal. 4083 and 4084, including three 500 gpm triple combination pumpers and accessories.)

Region VIII

(17) Mont. 24–106–F, Anaconda, Mont. (One 500 gpm pumper, including accessories to serve PHA Project No. Mont. 24021.)

(18) Oreg. 35–165–F, Astoria, Oreg. (Sewer facilities to serve PHA Project No. 35253.)

(19) Wash. 45–257–F, Spokane, Wash. (Sewer facilities to serve PHA Project No. 45035.)

[F. R. Doc. 53–6804; Filed, Aug. 4, 1953; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28315]

GYPSUM BACKING BOARD BETWEEN POINTS IN TEXAS

APPLICATION FOR RELIEF

JULY 31, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by Lee Douglass, Agent, for carriers parties to schedule listed below.

Commodities involved: Gypsum backing board, laminated or not laminated, carloads.

Between: Points in Texas.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, to meet intrastate rates, rates based on short-line distance formula, additional commodity.

Schedules filed containing proposed rates: Lee Douglass, Agent, tariff I. C. C. No. 786, supp. 12.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53–6812; Filed, Aug. 4, 1953; 8:48 a. m.]

[4th Sec. Application 28316]

PHOSPHATE ROCK FROM FLORIDA TO SOUTHERN POINTS

APPLICATION FOR RELIEF

JULY 31, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for Atlantic Coast Line Railroad Company and other carriers.

Commodities involved: Phosphate rock, slush and floats, and soft phosphate, not acidulated nor ammoniated, carloads.

From: Points in Florida.

To: Goldsboro, N. C., Greenwood, Miss., and Newport News, Va.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, to apply rates constructed on the basis of the short-line distance formula.

Schedules filed containing proposed rates; Atlantic Coast Line Railroad Company tariff I. C. C. No. B–3232, supp. 78; Seaboard Air Line Railroad Company tariff I. C. C. No. A–8153, supp. 78.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53–6813; Filed, Aug. 4, 1953; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-840]

NATIONAL SECURITIES SERIES AND NATIONAL SECURITIES & RESEARCH CORP.

NOTICE OF FILING FOR ORDER PERMITTING REDUCED PUBLIC OFFERING PRICES ON QUANTITY PURCHASES OF COMPANY SHARES

JULY 30, 1953.

Notice is hereby given that National Securities Series ("National Series") a registered open-end diversified investment company, and National Securities & Research Corporation ("National Securities") principal underwriter for the shares of National Series, have filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 22 (d) of the act the offering of National Series' shares at reduced public offering prices based on quantity purchases under the circumstances hereinafter described.

National Series is currently offering shares of seven different series. Under the offering, the sales charge is reduced for a quantity purchase but this applies to a single order for one series. The reduced sales charges are as follows:

Amount of order	Sales charge (percent of offering price)	Sales charge (percent of net amount placed in trust property)
Up to $24,999	8½	9.3
$25,000 to $49,999	5½	5.8
$50,000 to $74,999	5	5.3
$75,000 to $99,999	4½	4.7
$100,000 to $149,999	4	4.2
$150,000 to $499,999	3	3.1
$500,000 to $999,999	2	2.0
$1,000,000 or more	1	1.0

The applicants seek to permit a charitable, religious, educational, and other corporation, fund, or foundation exempt from taxation under section 101 (6) of the Internal Revenue Code and an employees' trust and profit-sharing plan exempt from taxation under section 165 of the Internal Revenue Code, to cumulate purchases regardless of the number of series involved to obtain the benefit of the reduced sales charge set forth above, providing the purchaser has continued to hold the shares previously acquired.

Section 22 (d) of the act prohibits a registered investment company from selling its redeemable securities to any person, other than a dealer or principal underwriter, at a price less than the current public offering price described in the prospectus. Since the proposal set forth above may result in varying prices to members of the public of National Series' shares and may contravene the policy, purposes and provisions of section 22 (d) of the act, applicants seek an order of exemption under section 6 (c) of the act to the extent necessary to permit the offering of such shares to charitable, religious, educational, and other non-profit organizations on the basis proposed.

Notice is further given that any interested person may, not later than August 11, 1953, at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-6797; Filed, Aug. 4, 1953; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

NYEGAARD & CO.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Nyegaard & Co., A/S Sandakervelen 103, Vestre Aker, Oslo, Norway, Claim No. 35021; property described in Vesting Order No. 672 (8 F. R. 5020, April 17, 1943), relating to United States Letters Patent No. 2,134,256.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director
Office of Alien Property.

[F. R. Doc. 53-6834; Filed, Aug. 4, 1953; 8:53 a. m.]

CHRISTIAN MARIUS THON

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Christian Marius Thon, Eidsfoss, Norway, Claim No. 40022, Vesting Order No. 672; property described in Vesting Order No. 672 (8 F. R. 5020, April 17, 1943) with respect to United States Patent No. 2,266,131.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6835; Filed, Aug. 4, 1953; 8:53 a. m.]

FIUGGINA AND GINA SERAFINI

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Fiuggina Serafini, Fossombrone (Pesaro), Italy; Gina Serafini, Fossombrone (Pesaro), Italy; Claim No. 36274; $3,440.00 in the Treasury of the United States, one-half thereof to each claimant.

The following securities in custody of the Safekeeping Department of the Federal Reserve Bank of New York, one-half thereof to each claimant: 109 shares common stock of Republic Steel Corporation, Certificate No. 81664 for 4 shares, Certificate No. 392602 for 5 shares and Certificate No. 213640 for 100 shares. 20/100ths of one share Republic Steel Corporation common stock-scrip certificate void after 12-21-54, No. S-255.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6836; Filed, Aug. 4, 1953; 8:54 a. m.]

FRANZ AND THERESIA BOHM

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Franz Bohm, Amstetten, Lower Austria; Theresia Bohm, a/k/a Theresa Bohm and as Theresia Boehm, Amstetten, Lower Austria; Claim No. 42788; $1,277.34 in the Treasury of the United States; $1,277.33 in the Treasury of the United States.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6837; Filed, Aug. 4, 1953; 8:54 a. m.]

ELISABETH HAAS ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Elisabeth Haas, Berlin, Germany, Claim No. 37329; Dr. Lothar Weil, Munich, Germany, Claim No. 37363; Dr. Konrad Weil, Frankfort on the Main, Germany, Claim No. 30550; the following cash amounts in the Treasury of the United States: $1,632.50 to Elisabeth Haas, $1,606.03 to Dr. Lothar Weil and $1,631.45 to Dr. Konrad Weil.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6838; Filed, Aug. 4, 1953; 8:54 a. m.]

THOMAS SLABY ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Thomas Slaby, St. Polten, Austria; Josef Slaby, St. Polten, Austria; Adele Marschik, also known as Adele Marschik and Adele Slaby, Sieghartskirchen, Austria; Bartholomaeus Slaby, Sieghartskirchen Austria; Rosalia Jurik, nee Slaby, Tulln, Austria; Claim No. 44999; $11,000.22 in the Treasury of the United States, one-fifth thereof to each claimant.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6839; Filed, Aug. 4, 1953; 8:54 a. m.]

HOLGER BRUDAL

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Holger Brudal, Strand, Berum by Oslo, Norway, Claim No. 40020; Vesting Order No. 294; property described in Vesting Order No. 294 (7 F. R. 9840, November 26, 1942) with respect to patent application serial number 308,484 (now United States Patent No. 2,313,010).

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6841; Filed, Aug. 4, 1953; 8:54 a. m.]

COMPAGNIE GENERALE D'ELECTRO CERAMIQUE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Compagnie Generale d'Electro Ceramique, Paris, France, Claim No. 36629; property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent No. 1,944,333. Property described in Vesting Order No. 1023 (8 F. R. 4205, April 2, 1943), relating to United States Patent Application Serial No. 252,235 (now United States Letters Patent No. 2,318,401). Property described in Vesting Order No. 2541 (8 F. R. 16498, December 7, 1943), relating to United States Patent Application Serial No. 277,649 (now United States Letters Patent No. 2,422,644).

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-6842; Filed, Aug. 4, 1953; 8:54 a. m.]

ROSINA TREML ET AL.

REVOCATION OF NOTICE OF INTENTION TO RETURN VESTED PROPERTY

It appearing that Claim No. 35579 asserted by Maria Kolaska, which is presently pending before this Office, is in conflict with Claim No. 15656, described below, the Notice of Intention to Return Vested Property published in that matter (17 F. R. 10841, November 29, 1952) is hereby revoked.

Claimant, Claim No., and Property

Rosina Treml, Steyr, Upper Austria; Anna Riesenhuber, Garsten-Sarning 33, near Steyr, Upper Austria; Thomas Holzmayer, Garsten, Near Steyr, Upper Austria; Claim No. 15656; $246.26 cash in the Treasury of the United States; $258.48 cash in the Treasury of the United States; $246.26 cash in the Treasury of the United States.

Executed at Washington, D. C., on July 29, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director
Office of Alien Property.

[F. R. Doc. 53-6840; Filed, Aug. 4, 1953; 8:54 a. m.]